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The hon. Khan Bahadur Sir MUHAMMAD USMAN SAHIB Bahadur :—" I beg to second it."

The motion was put and carried.

The hon. the PRESIDENT :—" I have to inform the House that, with reference to Regulation II of the Regulations for the holding of elections by means of the single transferable vote, I fix 3 p.m. to-day as the time by which nominations of candidates for election to the House Committee should be sent to the Secretary."

X

MOTION FOR THE ELECTION OF A COMMITTEE OF THE COUNCIL
FOR CONFERRING WITH THE INDIAN STATUTORY COMMISSION.

* The hon. the PRESIDENT :—" With reference to item (I) on the agenda (election of a committee of the Council for conferring with the Indian Statutory Commission), I wish to state to hon. Members of the Council that, when I received intimation of this motion, I deferred giving my consent and asked the Secretary to include it in the agenda provisionally which has been done. I wish to know the reasons why my consent should be given or why it should be withheld. I want to come to my conclusion after hearing the grounds for and against my consent being given."

* Mr. S. SATYAMURTI :—" May I raise a preliminary point of order? My submission to you is that Standing Order 6 contemplates the issue of an agenda containing the business of the day and that is not a mere formality because it has got two consequences, negative and positive. The negative consequence is that no item not included in the agenda for the day can be transacted without your special consent being given. The inclusion of an item in the agenda for the day gives it the statutory right of being discussed on the floor of this House without your consent having to be obtained for it. If, on the other hand, the business is not included in the agenda, it cannot be transacted in this Council without your consent. That is under Standing Order No. 6, clause (2), which says 'no business not included in the list of business for the day shall be transacted at any sitting without the leave of the President.' Therefore, Sir, it is not a mere formality. The Standing Order confers a statutory right, as it were, on the item of business and it gets the liberty of being discussed without your leave having to be sought for and given. That is distinct from and in addition to the consent which you have to give under Rule 24-A. . . ."

* The hon. the PRESIDENT :—" It is provisionally included in the agenda. The moment I give my consent, if I give my consent it becomes part of the agenda. Standing Order No. 6, clause (2), clearly says 'no business not included in the list of business for the day shall be transacted at any sitting without the leave of the President.' Therefore, the moment I give my consent, the motion will become part of the agenda."

* Mr. S. SATYAMURTI :—" May I ask for information? I want to know whether your ruling is that that item is not now an item of business before the House, and that, when you give—if you give—your consent, you will also give your leave as exercising your discretion under clause (2) of the Standing Order; then only it will become a business before the House: it is not on the agenda now."

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* The hon. the PRESIDENT :—“ It is in the agenda contingent upon my consent being given to it. ”

* Mr. S. SATYAMURTI :—“ Where is the provision for any provisional agenda ? ”

* The hon. the PRESIDENT :—“ From Standing Order No. 79 I derive power to regulate the conduct of business in the Council in all matters not provided for in the Act, the Rules or the Standing Orders. ”

* Mr. S. SATYAMURTI :—“ Standing Order No. 79 simply says this : ‘ The President shall have power to regulate the conduct of business in the Council in all matters not provided for in the Act, the Rules or the Standing Orders. ’ The agenda is provided for. This is not a case in which there is no provision in the Rules or Standing Orders for the issue of an agenda. If it were so, certainly you have residuary powers. I want your ruling whether in a matter which is clearly provided for in the Rules and Standing Orders that the agenda shall be issued, you still hold and rule that in spite of it you have reserve or new powers. ”

* The hon. the PRESIDENT :—“ I think I have got the power. ”

Nobody rose to speak and the hon. the President waited for a minute and then said if nobody wants to avail himself of the opportunity . . .

Mr. SAMI VENKATACHALAM CHETTI :—“ I think that the Government will give the reasons why they request you to give your consent, especially in view of your statement that you will hear the arguments of both the parties, of those who say that consent should be given and of those who are likely to oppose your consent being given. I expect the hon. the Leader of the House to come forward with his arguments. If he declines to do so, I shall say whether I avail myself of the opportunity you have given me. ”

* The hon. Sir NORMAN MAJORIBANKS :—“ I do not decline to do so. I am in your hands as to which Member you wish to ask to speak first. ”

Mr. SAMI VENKATACHALAM CHETTI :—“ I am completely in your hands as to which side you hear first. ”

The hon. Sir NORMAN MAJORIBANKS :—“ I am ready to speak first. (Laughter.) I submit that it is quite clear that under Rule 24-A it is open to you, Sir, to give your consent to this motion being moved. On general grounds if the question be raised—granting it is admissible—why the President should be agreeable to its admission, I would submit that if the President is satisfied that a large number of Members of this House wish to vote for a motion of this character, it is a suitable subject for him to assent to. The House should be given every room and every discretion that is vested in the President so as to give it the greatest amount of liberty in a matter like this rather than to deprive it of the liberty of expressing its wishes. On general grounds I would ask you to assent to the motion. ”

Mr. SAMI VENKATACHALAM CHETTI :—“ Mr. President, Sir, I thank you for your invitation to us to assist you in coming to a decision whether you should give your consent to this motion or not. While doing so, you were good enough to say that this motion has been included in the agenda provisionally and that your consent and leave to include it in the agenda will be contingent upon hearing what both sides have got to say on this matter. I therefore take it that I can reserve the right of raising the point of order after you give your consent. ”

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* The hon. the PRESIDENT:—"After the motion is actually made in the House."

MR. SAMI VENKATACHALAM CHETTI:—"Yes, Sir. Proceeding on that assumption, I have no hesitation in placing before you my case as to why your consent should not be given to this proposition. I also fully believe that when you invited us to advance our arguments, you were sincerely desirous of coming to a decision after hearing our arguments, and not merely to treat this as a process of formality before the House. I am therefore confident that the decision which you will give will be in my favour. Sir, I base my objections on two broad grounds. The first objection relates to the Standing Orders, rules and other procedural conventions observed in this House. The second ground on which I base my objection is one of public interests. Mr. President, I am not a lawyer accustomed to give various interpretations which various capable lawyers can put these rules to; but I can only say from a layman's point of view what I feel in this matter leaving the arguments, so far as the legal side of it is concerned, to my friends sitting with me. I am sure that if I do not succeed on the first ground, I am bound to succeed on the second ground which is more or less common to us both. I do not thereby suggest that the objections I am raising on the basis of rules and regulations are less important or that they are invalid, but I feel that in presenting the case purely on legal basis, I will be very much wanting, and my presentation of it may not be quite as appealing as that of any other capable lawyer."

* The hon. the PRESIDENT:—"Let there be division of labour between the Leader and the Deputy Leader of the Opposition."

MR. SAMI VENKATACHALAM CHETTI:—"Not only the Deputy Leader, Sir; there are several others who are going to raise objections on this matter."

"The immediately relevant issues are, in my humble opinion, whether the proposition set down on the notice paper is a motion or a resolution; if it be a motion, has the President authority under the rules, to allow a matter of general public interest not specifically stated in the list of matters comprising motions to be debated and discussed upon as a motion? Thirdly, granting that he has the power, can a motion raise substantially the same question as was disposed of by a resolution within a year? If it be a resolution, has the President power to give consent to place such resolution on the agenda paper, though such resolution is sought to be moved not in accordance with the rules governing all resolutions; and is this power absolute? Does this power include also the power to remove the ban on renewal of resolutions within a period of one year. Sir, I answer the first issue that the proposition is a resolution and not a motion. The Madras Legislative Council rules are arranged in a particular order, i.e., a set of rules dealing with a particular subject is put down in consecutive order. For instance, Mr. President, rules 3 to 5 deal with the President, Deputy President, Chairman, Secretary, etc.; rule 6 deals with the allotment of days; rules 7 to 9 deal with questions; 11 and 12 and 19 and 21 deal with motions. After practically exhausting the category of motions, the subject of resolution is taken up. It is in this stage of the rules that we find rule 24-A, under which this proposition is sought to be moved. *Prima facie*, therefore, when we are dealing under the

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rules, we are dealing only with a resolution and not a motion. Here it is perhaps necessary to bring to your notice that the word 'motion' is used in these rules in a double sense, viz., (i) in the sense of proposition which the House may be asked to discuss, decide and dispose of and (ii) in the sense of the act of moving the House for any definite purpose, i.e., in the sense of the noun form of the verb 'move'. Then, the act of moving the House can only be done by a motion on a matter of general public importance. Motions are therefore divided as motions and resolutions. Motions comprise an adjournment motion, a no-confidence motion, select committee motion, an address to the Governor, motion for the consideration of Bills and budget motions. All those that are not included in this category, so long as they are matters of general public interest, have to be put down under the category of 'resolutions.' The subject-matter of this proposition is one comprised in the list of subjects dealt with by 'resolutions.' Under Standing Order No. 29 (1), a matter requiring the decision of the Council is brought forward by means of a question put by the President on a motion proposed by a Member. Any motion for the purpose of discussing a matter of general public interest is a resolution according to that definition. Rule 24-A (1), in my opinion, lays down that the discussion of a matter of general public interest shall take place only on a resolution save in so far as is otherwise provided by the rules, the saving clause being intended to permit discussion on matters enumerated under the motions, viz., adjournment, no-confidence, select committee, etc. The consent of the President can be invoked only in cases when the resolution intended to be moved is at variance with certain rules governing the resolutions, not on 'any' motion as against resolutions. Your consent can only be requisitioned when one wants to move a resolution contrary to the rules laid down for the moving of resolutions."

The hon. the PRESIDENT:—"What are those rules?"

MR. SAMI VENKATACHALAM CHETTI:—"Your consent cannot be invoked, nor can it be exercised, to discuss any particular matter of general public interest otherwise than in a resolution. If the plea is that it is a motion and not a resolution, I beg to submit that your consent cannot be sought and that it cannot be granted. You cannot transfer from the category of motions any subject matter to the category of resolutions. Sir, you asked me what are the rules which you can condone, in giving your consent to the moving of resolutions contrary to the rules . . ."

The hon. the PRESIDENT:—"What are the rules that govern only the resolutions?"

MR. SAMI VENKATACHALAM CHETTI:—"The rules are of three classes: one class is that relating to the relationship with foreign governments, relationship with Indian Native States and any matter which is pending decision of a court. That is one set of rules. The second set of rules is that embodied in the Standing Orders that a resolution should be clearly and precisely expressed and should raise a definite issue and that it should not contain arguments, inferences, ironical expressions or defamatory statements, and the third set relates to giving notice, balloting, and other things. In respect of the first set of rules, it is the exclusive privilege of His Excellency the Governor to decide whether a resolution comes under any of the restrictions placed under those rules. With reference to the second set, it is your

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privilege, Mr. President, to decide whether a particular resolution offends against any of those rules. With regard to the third set also, it is your privilege, but that privilege is shared also by the Members of the Legislative Council, to see that the resolutions do not give any cause for offence against those rules. Therefore, Sir, what you can possibly condone in this matter is that you can allow a resolution to be put down on paper with a shorter notice or without ballot. Barring these two things, I am afraid, Mr. President, you have no power to override the other Standing Orders and the other rules. If it is argued that you have got the power of overriding the other rules, then the logical conclusion will be that you have got the power to allow resolutions which offend against even the first and second set of rules, which may contain defamatory statements, ironical expressions or arguments of inferences. Is it suggested that you have got the power? I am afraid you will yourself disown such power, if anybody pleads that you have got such a power. Therefore, Sir, it can only be a motion. If it is a motion, the question now is whether a motion can be resorted to merely to get over a difficulty laid down in the Standing Orders in respect of resolutions. What is the object of the Mover of this motion? The object is that under Standing Order No. 65, he cannot bring forward a resolution because that will be raising substantially the same question as was raised before within a year and the hon. the President will not allow it and the rules do not allow it; and therefore he says 'I shall have recourse to the subterfuge of asking your consent to allow me to make a motion.' If that is so, every resolution that is moved to-day can be disturbed or can be sought to be disturbed by making a motion to-morrow and that motion, in its turn, stands the chance of again being disturbed."

The hon. the PRESIDENT:—"Will not Standing Order No. 30 be a bar to it?"

MR. SAMI VENKATACHALAM CHETTI:—"No; if a resolution is interfered with by a motion, then Standing Order No. 30 does not come in, because a 'resolution' is interfered with only by a 'motion'. A 'motion' cannot be disturbed by a 'motion' within the same session, according to the strict interpretation of Standing Order No. 30."

*The hon. the PRESIDENT:—"I think you should concede that very resolution is also a motion."

MR. SAMI VENKATACHALAM CHETTI:—"Yes, also a motion in one sense, so far as Standing Order No. 30 is concerned; and every motion also becomes a resolution in course of time; because when it comes to be decided by the Council, it becomes a resolution. It remains a motion only for the mere reason of exempting it from the rigorous rules laid down for resolutions. There are certain rigorous rules laid down for resolutions and there are certain laxities shown in respect of other things called motions. The whole genus may be called motions; but in the genus, there are two subdivisions, viz., motions and resolutions. I may perhaps make my statement clearer by referring to what we call 'Paramathma' who is sometimes called 'Vishnu.' There is one Avatar of the 'Paramathma' called 'Vishnu', but that should not be the reason for identifying Vishnu with 'Paramathma'. Similarly, I say within the genus of motions, there are two subdivisions, 'motions' and 'resolutions'. With regard to resolutions, there are strict rules and

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with regard to motions, there are certain other rules laid down. There is a different chapter dealing with motions which does not comprise any subject that may come up under 'resolutions' and there are also different rules governing 'resolutions.' My humble submission is that in exercising your discretion, you can only exercise it to the extent of condoning the notice, i.e., the time-limit. That is a mere repetition of Standing Order No. 53 in the rules; because even under Standing Order No. 53, it is provided that the President can, with shorter notice, allow a resolution to be discussed.

"Now Mr. President, assuming for a moment that you are deciding 1 p.m. these points against me, there is this question of your discretion. Your discretion has got to be exercised. Well, what are the grounds upon which the hon. the Leader of the House has asked you to exercise your discretion in his favour? You remember, Mr. President, that the issue in the resolution which is sought now to be moved was decided by an overwhelming majority in this House only a few months ago, as many as sixty voting against twenty-eight. After various amendments were considered, an unanimity of opinion was reached amongst all parties, and we came to a particular decision. The Government consistently opposed it. Therefore, it is not now for the Government to say that we have changed our opinion and that opportunity should be given to us to revise our opinion. If such of those of hon. Gentlemen, who have voted for that resolution then, sought your consent to be given now, then there may be some justification for feeling that there might have come some change over this House. There is absolutely nothing like it. The Government consistently opposed the previous resolution when under discussion. The same Government is now coming forward to impose its opinion upon us. That is certainly an abuse of the privilege of asking the President to give his consent in one's favour. That will be trying to take advantage of certain opportunities to disturb the considered decision of this Council. Nothing has happened from January to now to warrant any change being made. I do not think even those who are now in favour of asking your consent being given will satisfy you that the status of the Commission and other Committees has so considerably changed that it will be a proper exercise of your discretion, if you will allow the thing to be reconsidered. Moreover, this question of allowing resolutions being disturbed by motions, and motions to be disturbed by resolutions, simply because there is this fact in the rules and standing orders, does not seem to help the House in forming sound judgments and coming to well-considered conclusions. Therefore, I beg, Sir, that if this is going to be a matter purely dependent on the exercise of your discretion, you will so use it as to uphold the dignity of this House for sobriety of judgment and for continuity of those well-considered views on previous occasions. You cannot, however, completely divorce from your mind, in exercising your discretion, what all has taken place in the country, whether, in the present state of the country, it will be in the interest of this country to allow that decision to be disturbed. That is the large question which you have got to decide."

The hon. the PRESIDENT:—"You mean to say that the President should take his decisions according to the conditions in the country?"

Mr. SAMI VENKATACHALAM CHETTI:—"I am afraid, Sir, that in exercising your discretion it is impossible to divorce from your mind those considerations. How else are you going to be guided? If it is going to

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be merely following rules and procedure, that is one aspect of the question. Then there is no question of your consent being given or your discretion being exercised. But if it is a matter of your personal discretion, I cannot see how what is going on in the country cannot but have some effect upon you. After all, Mr. President, I must say that the only redeeming feature of the Government of India Act is the President being an elected President of the Council. So far as this part of the House is concerned, it is only you that we can look up to for upholding the rights of this country. On those powers, if you are so fettered as according to the rules you must give the decision in favour of the Government, that is a different matter, you can be excused. I am afraid I should say so, Mr. President, to you (laughter). But so long as your personal discretion is sought, certainly it ought to depend on public grounds."

* Mr. K. R. VENKATARAMA AYYAR:—"Mr. President, I understand your invitation to mean that we are not now to address the House on the merits of the motion, that we are invited now to offer our remarks merely on the question whether or no the President should give his consent to this resolution being moved. I am not going into the question of this item of business being or not being competent to be included in the list of business. On that point, I understood objection was raised that the procedure applicable to the proceedings of this House does not contemplate anything like a provisional inclusion of a particular item of business in the list of business for the day. But that objection, Sir, I understand you overruled by holding that under Standing Order No. 79 it is competent to you to invite discussions on a matter which, though not formally included with your leave, in the list of business for the day, may later after the grant of leave by you be included in such list of business. That being so, I do not deem myself free to cover that ground over again. If it were competent to me to go into that matter, I would have to add my voice of objection to the objection already raised on that ground.

"Now, confining myself to the other question upon which hon. Members of this House have been invited to state their reasons why your consent should be granted or withheld, may I be permitted, Sir, to point out, in the first instance, that that invitation gives us leave also to make the submission that even if you willed this to be a suitable case for you to give your consent, it is beyond your competence to give your consent, and I wish to go over that wide ground and to submit for your consideration the position that it is beyond the competence of this House to discuss this matter on this occasion. I think the matter on which we have been invited to address you is really concluded by a few provisions of the Legislative Council Rules and the Standing Orders. Rule 2 of the Council rules says, that a "resolution" means a motion for the purpose of discussing a matter of general public interest.' That is one of the rules on which it would be desirable to focus attention in this connexion. Rule 24-A, clauses (1) and (2), really clinch the matter. Rule 24-A (1) says, 'Save in so far as is otherwise provided by these rules . . . no discussion of a matter of general public interest shall take place otherwise than on a resolution moved in accordance with the rules governing the moving of resolutions except with the consent of the President and of the Member of the Government to whose department the motion relates.' Clause (2) of that same rule goes further and says, 'It shall not be permissible to the President or to the Member of the

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Government concerned to give his consent to the moving of any motion in regard to any of the subjects in regard to which a resolution cannot be moved. . . . The next relevant provision which is decisive is Standing Order No. 65, clause (1). That provision says, 'When a resolution has been moved in the Council, no resolution or amendment-raising substantially the same question shall be moved again within one year.' These are the more important provisions governing the matter which is now before the House. I would say that the motion which the hon the Revenue Member desires to make is certainly a motion which invites this House to discuss a matter of a general public interest. Therefore, the provisions of rule 24-A are directly attracted by this motion, that is, that the discussion cannot be initiated except on a resolution moved in accordance with the rules governing the moving of resolutions.

"The next point is that clause (2) of that same rule is decisive on the point how far it is competent to you, Sir, or to the Member of the Government concerned. . . ."

* The hon. the PRESIDENT:—"Regarding rule 24-A (1), does it not comprise three classes of cases: (1) matters of public concern provided for by the Act and rules, (2) resolutions governed by the rules relating to resolutions, and (3) matters of public interest which are not comprised by the first and second classes, but exceptional cases that can be moved with the consent of the President and the consent of the Member of Government concerned?"

* Mr. K. R. VENKATARAMA AYYAR:—"I thank you, Sir, for the clarity with which the matter has been put by you, and I shall deal with each of these three categories. In so far as the opening words of clause (1) of rule 24-A are concerned, 'Save in so far as is otherwise provided for by these rules,' there is a distinct hint there that there is a category of cases involving discussion on a matter of general public interest not altogether falling within the ambit of a resolution moved in accordance with the rules governing the moving of resolutions. But with reference to the third category that you suggested, which cannot be moved except with the consent of the President and the Member of Government to whose department the motion relates, the view that I wish to present for your consideration is that that is not a distinct or a third category of cases giving jurisdiction to this House or to you to confer jurisdiction upon this House for discussion, but it is limited only to one or other of two categories of cases, namely those motions which are not resolutions and those which are resolutions on matters of general public interest. If the provisions of rules regarding the moving of resolutions such as the rule, for instance, which prescribes a certain period of notice, if some such rule is not complied with by the intending mover of the resolution, in a matter like that, where for your convenience or the convenience of the Government a rule has been enacted, the Member of Government who is inconvenienced by short notice may waive the enforcement of the rule by giving his consent notwithstanding the short notice, and you, Sir, by your consent to such a motion may lift that case from the embarrassment of the short notice or other contravention of the rules and thereby put it in order. But you two combined together, by force of those words which evidently you are emphasizing, Sir, you two cannot create a new or third category of cases conferring jurisdiction upon this House. That is the view which I wish to

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present so far as the third category is concerned. Now, when we closely examine the provisions of the Legislative Council Rules and the standing orders, it is clear what classes of motions are contemplated under these rules or standing orders which may escape the requirements applicable to resolutions. While all resolutions are motions according to the provisions and the tenor of the rules and standing orders, there are certain motions definitely provided for in the Legislative Council Rules and standing orders which escape the restrictions applicable to resolutions and which have to conform to certain regulations specially provided for, which may not be applicable to resolutions. There is no jurisdiction either in you or the Government Member concerned; in regard to them they are not illustrative instances, but they are exhaustive enumerations of the only cases of motions which do not amount to resolutions. These cases are the case of a motion for adjournment of the business of the House to discuss a definite matter of urgent public importance covered by rules 11 and 12 of the Legislative Council Rules; then there is the motion of want of confidence in a Minister or disapproval of his policy; that is definitely provided for. Then there is another motion, adjournment or postponement of a particular item of business (Standing Order No. 34) or passing on to the next item of business in the list of business for the day."

The hon. the PRESIDENT:—"Do you call passing over an item of business of the House a matter of public interest?"

Mr. K. R. VENKATARAMA AYYAR:—"I shall not be affected by that instance being omitted. I am only enumerating all the instances in the rules and standing orders."

* The hon. the PRESIDENT:—"The expression is 'Save in so far as is otherwise provided by these rules'. These rules do not include standing orders. Nor do the words that follow 'Or in any case in which a communication is to be made to the Governor under any of the provisions of the Government of India Act, etc.' refer to standing orders. Therefore the only saving is regarding these rules or what is provided by these rules and by the provisions of the Government of India Act. Rule 24-A does not in any way refer to standing orders."

* Mr. K. R. VENKATARAMA AYYAR:—"I ignore the standing orders. There is no standing order in this connexion. What I have pointed out are only instances and cases coming under the category indicated by the words 'Save in so far as is otherwise provided by these rules.' I venture to submit that the motion invites discussion of a matter of general public interest. Therefore we are strictly bound by the provision of rule 24-A (1), namely, that this discussion can be invited only by the moving of a resolution. I come back to the point. These words 'Except by the consent of the President and of the Member of Government' do not indirectly create a third or distinct category of cases resting upon the consent of the two functionaries named. Whether you regard it as a distinct category or no, the matter is concluded by the provision in rule 24-A (2) which renders it incumbent on the President or Member concerned . . ."

* The hon. the PRESIDENT:—"Suppose the words 'Except with the consent of the President and the Member of Government to whose department it relates' are omitted, then how many categories will there be under clause 24-A (1)?"

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Mr. K. R. VENKATARAMA AYYAR :—" Only two categories."

* The hon. the PRESIDENT :—" Does the existence of these words create a third category ?"

* Mr. K. R. VENKATARAMA AYYAR :—" It does not ; deviation from the rule may be permitted in regard to moving of resolution but you cannot create a new class of motions. But whether you regard it as a distinct category or no, in any case what clinches the matter and decides it without possibility of contradiction is that this giving of consent is again not an unfettered consent, for it is beyond the competence of the President or Member of the Government to give his consent to the moving of any motion in regard to any of the subjects in regard to which a resolution cannot be moved. Standing Order No. 55 comes in the way of a resolution on the subject being moved as a resolution. There is the impediment, when a resolution has been moved in the Council, no resolution raising substantially the same question shall be moved again within one year. So long as 65 (1) is unabrogated, there is the primary interdiction of the resolution as resolution being moved on the subject which was disposed of and decided by this House on 25th January last. I am assuming throughout the argument that there is substantially the same question. I am assuming that the question raised by the intended motion was raised in the motion decided by the House on 25th January last. If this were to be moved as a resolution, Standing Order No. 65 (1) would be a bar to it. That being so, rule 24 (2) prevents you from giving your consent to this motion as a non-resolution motion."

* The hon. the PRESIDENT :—" Rule 23 (1) says : ' No resolutions shall be moved in regard to any of the following subjects '. The subjects are enumerated. Is not the same thing referred to in rule 24-A (2) ? The latter portion says : ' The decision of the Governor on the point whether any motion is or is not within the restrictions imposed by sub-rule (i) of rule 23 shall be final '. The same subjects are referred to and the same powers are mentioned."

* Mr. K. R. VENKATARAMA AYYAR :—" I have understood it, Sir. The word ' subjects ' appearing in clause 24-A (2) is not anything like a technical word. It is a word to which you must attach the ordinary dictionary meaning, and you must not by the occurrence of that word in more than one place in a set of rules give to the word an interpretation which it does not bear."

* The hon. the PRESIDENT :—" In this connexion I request you to examine section 72 D (5). It says : ' and the rules may provide for the number of members required to constitute a quorum and for prohibiting or regulating asking of questions on, and the discussion of, any subject specified in the rules '. Sub-rule (1) of rule 23 mentions the subjects discussion of which is prohibited by the rules and the same things are referred to in rule 24 (2)."

Mr. K. R. VENKATARAMA AYYAR :—" My point is that while it may be open to you in a suitable case to understand by the word ' subjects ' those categories of subjects which are or are not permitted to be raised in the local

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Council, you cannot get away from the applicability of Standing Order No. 65 which also introduces a category of subjects which are beyond the purview of this House. Standing orders are provided for by the sections of the Act. Section 72 D (5) refers to standing orders providing for the conduct of business and the procedure to be followed in Council."

* The hon. the PRESIDENT :—"Standing orders do not provide for the prohibition of subjects, whereas the rules provide for it. The scope of the standing orders is only confined to the procedure. The rule against repetition is one relating to procedure rather than one relating to prohibition of subjects."

Mr. K. R. VENKATARAMA AYYAR :—"There is such a thing as prohibition of subjects from the purview of the Council for a temporary period and there is prohibition for all time. Rule 24 A (2) is equally applicable to cases of prohibition for a time and prohibition for all time. That is the view I wish to submit. As for Standing Order No. 79, I do not know if anybody is going to indent on that standing order. But if anybody should think that it has any bearing I should submit it cannot have any bearing. You may invent a procedure in a novel set of circumstances when such a set of circumstances arise for the purpose of regulating and effectuating the business of this House when it has jurisdiction, but you cannot confer jurisdiction on this House or yourself or a Government Member in so far as the set of circumstances arising before you is one which has already been provided for either by the Act or the rules or standing orders."

* Mr. P. SIVA RAO :—"Mr. President, on the question of order, I wish to make a few remarks. The questions that arise for your consideration are, whether it is beyond the competency of the President to give consent to the making of this motion. The second question that arises incidentally for your consideration is whether this motion is barred by what we lawyers call 'res judicata'."

At this stage the House rose for lunch.

After Lunch 2-30 p.m.

* Mr. P. SIVA RAO (continued) :—"Sir, when we adjourned for lunch I was submitting a few points for your consideration in dealing with this question. The first question of importance is whether it is within the competency of yourself to allow or disallow this motion. As regards that, I may submit that the Standing Orders and the Legislative Council Rules have made a clear distinction between motions and resolutions. The hon. Member from Madura has quoted the definition of a resolution as meaning a motion on a matter of general public interest. That is quite true. All resolutions are motions, but, in my opinion, all motions are not resolutions. Motions have been defined in Standing Order No. 29. It says: 'A matter requiring the decision of the Council is brought forward by means of a question put by the President on a motion proposed by a member.' And then Standing Order No. 30 says: 'A motion must not raise a question substantially identical with one on which the Council has given a decision in the same session.' We have thus got a different rule altogether for our guidance in the case of 'motions'. It is only a prohibition against the same questions being raised in the same session in the case of motions. I do not

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think this objection can be raised in this case because we are meeting in another session.

"There are some specific motions provided for in the standing orders and the Council Rules and these have been enumerated by the hon. Member from Madura. These are motions of censure, motions of no-confidence, motions for appropriation, motions for reduction of grant and so forth. There is a special procedure and time prescribed for such motions. This is a motion which does not come under the head of 'resolutions,' which according to the rules, shall be in the form of a specific recommendation addressed to the Government. A resolution is always worded. 'This Council recommends to the Government . . .'. This is not a resolution because it moves the Council to proceed to elect some seven members to confer with the Statutory Commission.

"Having said so, I proceed now to deal with the provisions relied upon by the hon. Member from Madura according to whom rule 24-A prohibits the President from giving his consent to a matter of this kind. Rule 24-A (2) reads thus: 'It shall not be permissible to the President or to the Member of the Government concerned to give his consent to the moving of any motion in regard to any of the subjects in regard to which a resolution cannot be moved . . .'. Stress has to be laid, as you very rightly pointed out, on the word 'subjects' in this sub-clause. If any subjects are prohibited from discussion by way of a resolution, their discussion by way of a motion cannot be permitted by the President. Those subjects have been enumerated in sub-clauses (i), (ii) and (iii) of rule 23 (1). All that sub-clause (2) of 24-A lays down is that the President has no power to give his consent and the Member of Government has no power to give his consent to the discussion of any of the three subjects specified above. It is not suggested that we are at present discussing any of these prohibited subjects mentioned in rule 23.

"I shall now draw your attention to the clause relied upon by my hon. Friend from Madura. The first clause says:

'Save in so far as is otherwise provided by these rules or in any case in which a communication is to be made to the Governor under any provision of the Government of India Act or of these rules no discussion of a matter of general public interest shall take place otherwise than on a resolution moved in accordance with the rules governing the moving of resolutions except with the consent of the President and of the Member of the Government to whose department the motion relates.'

"It only means that except in the case of specific motions such as adjournment motions or motions suspending the business of the day, unless the consent of the President and of the Member of Government in charge is obtained, no motion can be moved except in accordance with the rules regulating the resolutions. There are certain rules regulating the moving of resolutions such as the 15 days' notice, etc. This rule lays down that unless the consent of the President and of the Member of Government in charge is obtained, no motion other than those specified in the rules, can be moved with shorter notice than 15 days. Otherwise Standing Order No. 30 would be unmeaning and superfluous. If all motions and resolutions come under the head of resolutions it would be thoroughly unnecessary to enact any standing order like Standing Order No. 30. To bear out my view

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in this particular matter I would request you to compare the wording of Standing Order No. 53 and Standing Order No. 54.

Standing Order No. 53 reads. 'The member who moves a resolution shall give fifteen days' notice and shall together with the notice submit a copy of the resolution which he wishes to move:

Provided that the President, with the consent of the Member of the Government incharge of the department concerned, may allow a resolution to be entered on the list of business with shorter notice than fifteen days.'

"I only mention that to show that with the consent of the Member of Government and of the President, even a resolution can be moved at shorter notice than fifteen days. Even so in the case of moving motions under 24-A.

"The next question that has to be considered is what are the considerations that should weigh with the President in withholding his consent. The hon. the Leader of the Opposition suggested that the country's interest should be considered. With due deference to him, I think the President ought to be above all 'political' considerations. The powers of the President in the matter of disallowing questions, resolutions and motions are very much restricted. There are only certain forms prescribed. For instance, if a resolution is not definite enough, if a question raises a scandalous matter, etc., the President is given power to disallow. Political considerations ought not to enter into the President's mind. But it is not for me to suggest (Mr. S. Satyamurti: Thank you) how the discretion of the President should be exercised in a matter like this. I only indicate that these are the several considerations. The only consideration of importance in a matter like this is whether the business of the House will suffer if the fifteen days' notice is not insisted upon and whether the Member of Government could afford to have an earlier discussion. These are the only considerations of business that ought to guide either the President or the Member in charge in giving or withholding consent.

"Another most important question is whether Standing Order No. 65 applies to this case at all. At this stage I would remind you of the motion that was passed at the instance of the hon. the Leader of the Opposition. The resolution that was ultimately passed was the resolution as amended by Mr. T. C. Srinivasa Ayyangar. If I remember right, it only meant that we should have nothing to do with the commission as it was then constituted. From that to argue that it is binding for all time to come however much the procedure of the Commission might be changed in the meantime is not convincing. Sir, nobody believes that our chief cause of complaint was only the personnel of the Commission. Nobody dreamt that the personnel would be changed. The resolution passed in the Legislative Council was quite similar to the one passed at the instance of Lala Lajpat Rai in the Legislative Assembly. Now, the resolution that we have passed is not of a binding nature. It is elastic enough. It is perfectly open to this Council to take note of the altered circumstances and the changes that have been effected in the procedure of the Commission since January 1928. I only submit that the question now being debated was not the question debated by the House in January. The question then was whether they should co-operate in January 1928 or not. The question now before us is whether looking into the incidents that have happened in the last six months and taking note of what the other Councils have done, we should continue to non-co-operate. That is the consideration before this House.

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"In no sense will it mean that we are revising our decision. The previous resolution arrived at by this Council only meant that for the present this Council was not prepared to support the Simon Commission as then constituted (Hear, hear). If you do not agree with me that is another matter. That resolution was binding only for the moment. Since coming to that decision several changes have happened. We want every latitude. It is competent for the President to allow or disallow this motion. And lastly the resolution that we have passed is very elastic. It is open to us to revise it. Six months have elapsed and hon. Members are at liberty to revise their ideas. With these few words I think the motion is quite in order."

MR. J. A. SALDANHA :—"Sir, if it is a matter of mere discretion apart from competence of the hon. the President to allow or disallow this motion, I would only appeal not to the political conditions in the country but to another factor and that is the choice that lies between consulting the country or mere rejecting to admit this resolution. Between these two the first alternative would be to advise the hon. the Leader of the House to request His Excellency the Governor to make a referendum to the country. I think this is the only course open and we of our party are quite prepared to meet the challenge."

* The hon. the PRESIDENT :—"The hon. Member is requested to confine his remarks to the motion under consideration."

MR. J. A. SALDANHA :—"The only definition, the real definition, is given at the commencement, i.e., rule 2 of the Legislative Council Rules. It says that a 'resolution means a motion for the purpose of discussing a general matter of public interest.' Now there is a decision of the Council on the subject. Sir, I appeal to the wording of the motion. It is practically a resolution because it says that we must appoint a committee, etc., etc., and what is it but a resolution? There is of course rule 23 which says that a resolution must be worded in such and such terms. But that is not the only class of resolutions. Rule 24 (a) says that apart from the resolutions referred to in 23 the President and the Member of Government concerned can allow a motion. And what is this but a resolution? Taking the whole context it cannot be but a resolution. I submit that such a resolution is covered by Standing Order No. 65 which does not allow a motion of this kind to be repeated within a year. As to the arguments adduced I ask what is the change that has taken place since we passed the former resolution? At that time we said we had nothing to do with the Simon Commission, as it was then constituted. Now has it been differently constituted? On what authority has the Simon Commission come and is it going to sit with us? What power has the Secretary of State or the Government of India to ask us to sit with that Commission? If my hon. Friend Mr. Siva Rao wants to follow that mendicant policy, let him do it."

* The hon. the PRESIDENT :—"You are going into the merits of the motion."

MR. J. A. SALDANHA :—"I am not going into the merits, Sir. But as my hon. Friend Mr. Siva Rao made certain remarks, I had to refer to him. Then there is the question of the competence of this Council to take up this motion. I shall dwell upon that point later on. (Laughter.) Personally

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I would support the Leader of our Party that this motion should be disallowed and that your discretion should be exercised in our favour or that the leader of the House should be requested to request His Excellency the Governor to make a referendum or dissolve the Council which challenge we are prepared to take up."

* Mr. C. RAMASOMAYAJULU :—" Sir, clause (2) of rule 24 says: 'It shall not be permissible to the President or to the Member of the Government concerned to give his consent to the moving of any motion in regard to any of the subjects in regard to which a resolution cannot be moved and the decision of the Governor on the point whether any motion is or is not within the restrictions imposed by sub-rule (1) of rule 23 shall be final.' I respectfully invite your attention to the latter part of this clause. The latter part of this clause says 'that the decision of the Governor on the point whether any motion is or is not within the restrictions imposed by sub-rule (1) of rule 23 shall be final.' It does not say that 'the decision of the Governor on this matter is final.'"

* The hon. the PRESIDENT :—" I am afraid the hon. Member is going out of the way. The issue before of the Council is whether the President should give his consent. Therefore I would request him to confine himself to this point."

Mr. C. RAMASOMAYAJULU :—" Whether according to the rules the President is enabled to give his consent or not is the question. My point is that rule 24 (2) is conclusive, because if it had been the intention of the rules that the President must be enabled to give his consent the latter portion of the clause must be worded thus: 'the decision of the Governor on this matter is final.' The first portion deals with resolutions not merely covered by rule 23 (1) but also subjects other than those covered by rule 23 (1), that is to say subjects on which resolution has not been allowed and subjects on which resolution of the Council has already been arrived at. That it is so is conclusive. I say this in reference to the question put by you during my hon. Friend Mr. Venkatarama Ayyar's speech. If it had been the case as you Mr. President seem to view that the expression 'subjects' only refer to subjects contemplated by rule 23 it needs for rule 23 merely to say that the decision of the Governor is final. If it had been like that it is possible to argue that the word 'subjects' in sub-rule (2) refers only to 'subjects' mentioned in sub-rule 23 (1). If for once the expression 'subjects' mentioned in sub-rule (2) refers also to subjects other than those on which the Governor has got to decide finally, my point is that the expression 'subjects' refers to other subjects upon which a resolution cannot be possibly moved now and one class of such subjects is a subject on which a resolution has already been arrived at within one year. The wording of the latter portion of rule 24 (2) is evidence conclusive to show that this expression means and includes 'subjects' on which consent cannot be given by the hon. the President or a Member of the Government other than those covered by rule 23. If it is intended only to put a ban upon subjects covered by rule 23 alone it would have been very easy to have said that the decision of the Governor on this matter is final. What I submit is that the latter part of the clause is more restrictive than the former. I would request the hon. the President to pay

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particular attention to the restrictive wording of the latter portion of clause (2). The first portion says that no discussion can take place on a subject on which a resolution cannot be moved and no permission can be given by the President for the moving of a motion on a subject on which a resolution cannot be moved in the Council.

“On other points many have spoken, so I do not want to refer to them again and waste the time of the Council. But if the point I have mentioned is given proper attention to I believe, it will enable you to come to a decision.”

* Diwan Bahadur S. KUMARASWAMI REDDIYAR:—“Mr. President, Sir, if I rise to speak now, it is particularly to emphasise one point which, I think, deserves further emphasis. On the legal points that have been raised, so far as they are worthy of being answered or require answering, I am sure that they are safe in the hands of the legal advisors of the Government. But I must say that the discussion, in so far as it has proceeded on the assumption or the view that the motion for which you are now asked to give leave, raises the same point as that which was discussed and decided upon in January last, I say, Sir, that in so far as the discussion has proceeded on that view, it has gone on quite wrong lines. The resolution that was passed in January last was to the effect that this Council was not prepared to co-operate with the Simon Commission ‘as at present constituted.’ Now the whole question is what these words, ‘as at present constituted’ mean. A reference to the proceedings of the meeting at which this point was discussed and the resolution passed would make it quite plain that it was not in the mind of any of the political parties or of any of the individual members who took part in the debate, that ‘constitution’ there meant only the personnel of the Commission (A voice: Question). At any rate, Sir, there was a mental reservation behind that resolution, as was pointed out even then and that mental reservation in the case of very many members who voted for the resolution did not include the question of the personnel of the Commission. I am speaking subject to correction, but still I maintain, that in most of the speeches that were made on that occasion there was no reference either to the non-inclusion of Indians in the Commission or to the individual merits of the gentlemen who constituted the Commission. 3 p.m.

“Apart from that, ‘constitution’ does not mean merely the personnel of the Commission. It includes a variety of matters other than the personnel; it includes for example, the body of rules of law or procedure under which the commission is functioning the rules which would govern their relations to the public of the country and to the committees proposed to be formed. All these, I submit, would form part of the constitution of the Commission. I shall put a hypothetical case and then leave it to my hon. friends who sit on my right to answer that before they decide whether this particular motion is in order or not. With my limited knowledge of their present demand I do think, Sir, that what they want is a round table conference with the members of the Simon Commission. Then, Sir, if instead of saying that he is going to do away with this evidence in camera, Sir John Simon had said that he would yield even to a greater extent and that he was prepared to have a round table conference with the members of the committee that we are called upon to elect, if he had said that, Sir, would the hon. Members of the

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Swarajist Party come forward and say that the Commission was still constituted as it had been in January last and they would therefore still not co-operate?"

Mr. S. SATYAMURTI:—"Yes."

* Diwan Bahadur S. KUMARASWAMI REDDIYAR:—"If you are prepared to say so, then your case will be entirely different from what it is now. I do say, Sir, that 'constitution' includes many other things beyond the personnel of the Commission. Changes have taken place, which might in the opinion of some justify a change of their attitude towards the Commission. That is the exact point that this motion raises now. That changes have taken place is a point beyond dispute; but whether the changes are such as will justify the members of this House in changing their attitude towards the Commission that is the point raised for debate. I do not think, Sir, for a moment that hon. Members of the Swarajya Party would stand in the way of any such discussion taking place. I do think that, being imbued with democratic instincts and democratic traditions, they would not be mere sticklers for the technical principles of *res judicata* with which we lawyers are so familiar in court, but true to their democratic principles of freedom of discussion and of speech they would encourage a further free and full discussion of the question that was debated upon and decided in January last in the light of the changes that have taken place. As I observed, changes have taken place. We may disagree that the changes are such as to justify any change of our attitude; but at any rate it is certainly open to the Council to have a further discussion of the matter whether the changes are such as to justify a change of attitude on our part and if so to vote for co-operation. I submit, Sir, that this motion is quite competent and that it will be really desirable in the interests of the country, in the interests of the public and of this Council that a further discussion and a complete discussion on this question should take place and that this motion should be allowed to be debated."

* Rao Bahadur C. V. ANANTAKRISHNA AYYAR:—"Mr. President, Sir, standard treatises on procedure in the House of Commons make it clear that there are two fundamental methods by which a matter can be brought for discussion before the House: they are (1) by means of resolutions and (2) by means of motions (Redlich Volume II, page 215). That distinction has been kept up in the Legislative Council Rules framed under section 72 of the Government of India Act, and also in the Standing Orders of the Legislative Council which have been made by this Council with the consent of His Excellency the Governor. Now, I understood that some of the hon. Members admitted that there is such a distinction between motions and resolutions. We are not here concerned with the dictionary meaning of these words. The Legislature takes care to say beforehand in what particular sense particular words and expressions are used either in the Act or in the Rules. Now under the Council Rules there cannot be a 'resolution' unless it be a specific recommendation to the Government in respect of a matter of general public interest. Rule 23 says that every resolution shall be in the form of a specific recommendation addressed to the Government and rule 24 says that any such resolution shall have effect only as a recommendation to the Government. Now reading rules 23 and 24 together, it is absolutely clear that if any particular discussion before this House is not

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aimed at bringing forward to the consideration of Government a specific recommendation on a matter of general public interest—it may be anything else, it may be anything in common parlance—it cannot be said to be a ‘resolution’ for the purpose of these rules. Now what are the limits by which the moving of such resolutions is circumscribed? Now rule 23, besides saying that the resolution should be in the form of a specific recommendation addressed to the Government, restricts the subjects available for discussion. The resolution should not deal with communications between the Local Government and the Government of India or the Secretary of State, it should not deal with matters which are *sub judice* and it should not also deal with the relation of this Government with foreign governments. Then there are also further restrictions regarding the duration of notice, and ballotting in the case of resolutions. These are the main considerations that should be kept in view in finding out whether a particular matter for discussion is or is not a resolution for the purposes of these rules. Again Standing Order No. 65 says that when a resolution has been moved in the Council, no resolution or amendment raising substantially the same question shall be moved within one year; but if a resolution has been disallowed, the period that should elapse before the resolution is repeated is not one year but is restricted to the same session.

“Now let me remind the House as to what are ‘motions’ as contradistinguished from ‘resolutions.’ Motions in the loose sense may refer to discussion of any subject. Do we not say that a resolution was moved? But the sense in which we are concerned when using such words here is that the nature of motions is different from resolutions for the purpose of discussing matters before this House. As far as motions are concerned, they are provided for specifically in some instances by the rules and the standing orders. Hon. Members are aware of rule 11 relating to adjournment motions. We also make motions with reference to Bills. Motions are made for the purpose of constituting a House Committee, Public Accounts Committee and Finance Committee. These are all matters which are specifically mentioned in the rules and standing orders. There are other cases where motions are allowed though they have not been specifically provided for in the rules and standing orders and they are, it would seem, attributed to the inherent powers of the House to resolve upon certain matters, for example, motions of condolence or congratulation.”

* The hon. the PRESIDENT:—“Congratulatory or condolence motions are not matters of public concern; they concern only the House.”

* Rao Bahadur C. V. ANANTAKRISHNA AYYAR:—“Now with reference to motions, the rules are that notices should be given, the President could in some cases agree to shorter notice. Standing Order No. 30 says that the subject on which a motion has been made cannot be discussed again within the same session. Now in order to determine the time-limit for the application of the ‘rule of repetition’ in the case of the particular matter before the House, we will have to see whether it is what is technically known as a resolution or what is technically known as a motion. Now having regard to the definition of a ‘resolution’ in rule 23, namely, that it should be a specific recommendation to the Government, it is clear that what is now before the House could not possibly be a specific recommendation to the Government. In that sense it is not a resolution. For this purpose I will just read what is now proposed to the House by the motion of the hon. the Leader of the House.

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“That for the purpose of jointly conferring with the Indian Statutory Commission on the terms stated in the letter of the Chairman of the Commission to His Excellency the Viceroy, dated the 6th February 1928, and in the further announcement published by the Government of India on 23rd June 1928 this Council do proceed to elect seven representatives in accordance with the regulations made by the hon. the President under Standing Order No. 77 for the holding of elections by means of the single transferable vote.’ It is clear that the essential of a resolution is that there must be a recommendation to the Government the object of which is that the Government should be pleased to do something definite in pursuance of this resolution, and that object is wanting in this proposal. What the House is required to do is to do something itself, and not to ask the Government to do something. The rule of repetition should not be allowed to operate except to the extent to which the language of any particular rule will operate. Let me remind the House of the practice in England, where whether it is a resolution or a motion, the rule of repetition is confined to the same session. I have read books on Parliamentary Practice by May and Redlich, and in May’s book at pages 290 and 291, I find that once the House prorogued for two days, because if the session was changed the same motion could be brought up for discussion again. Thus you will see that in England the principle of repetition is confined to the same session. Here we have Standing Order No. 65, stating that when a resolution has been moved in the Council it could not be brought up again within one year.

“Now my hon. friends on the other side sought the aid of Legislative Council rule 24-A by putting a construction favourable to them. But what I say is that rule 24-A is a conclusive answer in favour of the contention that I am putting before you. Before we read rule 24-A, we must read rule 22 first. It provides that ‘the Governor may within the period of notice disallow any resolution or any part of a resolution on the ground that it cannot be moved without detriment to public interest or on the ground that it relates to a matter which is not primarily the concern of the local Government, etc.’ What I am now concerned to show is that there is under rule 22 power to His Excellency the Governor to disallow a resolution wholly or in part on the ground that it cannot be moved without detriment to public interest or that it relates to a matter which is not primarily the concern of the Local Government. We must remember that rule 24-A was enacted years afterwards, and I think it was enacted in 1926. That rule has been already read before this house, but I will read it once more so that we may clearly analyse it. Rule 24-A (1) runs as follows :

‘Save in so far as is otherwise provided by these rules or in any case in which a communication is to be made to the Governor under any provision of the Government of India Act or of these rules no discussion of a matter of general public interest shall take place otherwise than on a resolution moved in accordance with the rules governing the moving of resolutions, except with the consent of the President and of the Member of the Government to whose department the motion relates.’

“According to my construction of rule 24-A, hon. Members have been given powers besides those conferred by rules 22, 23 and 24, additional powers to discuss matters of public interest, not by means of resolutions which have already been provided for, but by a new, less cumbersome mode of motions—while at the same time safeguarding public interests. It says ‘Save in so far as is provided by these rules’—this means the rules already provided for the

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making of motions; or 'in any case in which a communication is to be made to the Governor under any provision of the Government of India Act or of these rules'—this gives us a second right. The rule then proceeds to give a third right—'No discussion of a matter of general public interest shall take place otherwise than on a resolution moved in accordance with the rules governing the moving of resolutions'. If the section ended there it will be simply repeating what has already been provided for—but it proceeds to enunciate one more category, by enacting that no discussion on a matter of general importance shall take place except with the consent of the President, and of the Member of Government to whose department it may relate. In addition to the modes by which motions are allowed already, the section proceeds to show that resolution is the only proper way, unless you have got the consent of the President and of the Member of the Government in charge of the subject."

A voice: 'What is the category?'

* Rao Bahadur C. V. ANANTAKRISHNA AYYAR:—"If the first and second fall under that category the third equally falls under that."

"What does rule 24-A (2) say? It gives a safeguard, a limit:

'It shall not be permissible to the President or to the Member of the Government concerned to give his consent to the moving of any motion in regard to any of the "subjects" in regard to which a resolution cannot be moved.'

"One should not be under the idea that because these rules have been made, the scope as regards subject matter is unlimited. The answer is given here. The same restrictions which limit the subject matter of resolution—the three items mentioned under rule 23—apply to such motions also. For rule 24(2) runs thus:—"It shall not be permissible to give his consent to the moving of any motion in regard to any of the subjects in regard to which a resolution cannot be moved and the decision of the Governor on the point whether any motion is or is not within the restrictions imposed by sub-rule (1) of rule 23 shall be final.' While the limitations contemplated by rule 23 refer to the relationship between the Local Government and foreign Governments, etc., rule 24-A (2) also contemplates similar limitations with reference to the subject matter. Finally the point is made further clear by sub-rule (3) which says:—"The Governor may disallow any motion or any part of a motion on the ground that it cannot be moved without detriment to the public interest or on the ground that it relates to a matter which is not primarily the concern of the Local Government and if he does so the motion shall not be placed on the list of business.' Rule 22 which is the original rule relates to the disallowing of resolutions wholly or in part. But with reference to the right created by rule 24-A, there should be a limitation and the sub-rule (3) of rule 24-A provides for it. And instead of the words 'resolution or any part of a resolution' occurring in rule 22, you have got the words 'motion or part of a motion' in rule 24-A (1), and with reference to the subject matter the sequence makes it clear what is really contemplated by the rule. The grounds on which a motion may be disallowed under rule 24-A (3) are identically the same on which a resolution or a part of a resolution may be disallowed under rule 22. If rule 24-A concerned only resolutions, what meaning can be attached to the Legislature adding years afterwards this new rule 24-A making it absolutely redundant and absolutely unnecessary. It could not be that

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rule 24-A was enacted years afterwards to fill up a gap which never existed. Rule 24-A (3) makes it absolutely clear that what is contemplated by rule 24-A is motion and not resolution. In fact the wordings make it clear. Just as in rule 22 we have 'If he does so the resolution or part of the resolution shall not be placed on the list of business', similarly here 'if he does so', i.e., if His Excellency acting within the powers given to him by the rule disallows a motion, it specifically says 'the motion shall not be placed on the list of business.' It seems to me having regard to the expressed words occurring in rule 24-A it is impossible to believe that it refers to resolutions. Rule 24-A (2) says 'it shall not be permissible to the President or to the Member of the Government concerned to give his consent to the moving of any motion. . . . So that what is contemplated is the moving of a motion in regard to which a resolution cannot be moved. This gives a real clue to the rule. There is the well recognized distinction between motion and resolution and in fact this could not be disputed at present. Having regard to these circumstances, I contend that rule 24-A which has been invoked to vetoing this motion is not capable of the construction contended for by the hon. Members opposite. One of the hon. Members thought that the word 'subject' is used in rule 24-A in some colloquial, common matter of fact meaning and not in any technical sense. (A voice : It is not a term of art.) With reference to that remark we must remember that the Legislative Council Rules are made under powers reserved by section 72-D of the Government of India Act.

3-30 p.m. "Section 72-D of the Government of India Act uses the word 'subject' in the sense of subjects the discussion of which is prevented by moving resolutions or by any other mode of bringing matters for discussion before the House ; so that, to say that the word 'subject' has one meaning in one part of the Act and another meaning in another part of the Act or rules framed thereunder is not correct.

"Section 72-D gives power to make rules and when the rules are made, they should be deemed as part of the Act itself. These rules being part of the Act, the contention that the word 'subject' must have one meaning in one portion of the Act and another meaning in another part of the Act is not tenable.

"In regard to Standing Order No. 65, it says that 'when a resolution has been moved in the Council, no resolution or amendment raising substantially the same question shall be moved again within one year', so that that rule applies only in the case of a proceeding that is subsequently brought before the House as a resolution. The proceeding before the House is not a resolution. That being so, Standing Order No. 65 does not apply at all. If Standing Order No. 65 does not apply, there is no standing order which prevents the discussion of any matter in a session other than the session in which the matter was previously discussed. Even under Standing Order No. 65, if a resolution was disallowed, it can be discussed in the next session. Under Standing Order No. 30, if a motion had been made and the Council had expressed itself on it, the same matter can be discussed in the subsequent session, so that in this particular case when a motion is brought forward with a view to reconsider a matter with reference to which a resolution was moved on a former session in this House, it is not barred by the rule of repetition contained in Standing Order No. 65.

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"There is one other aspect in which the question is capable of being viewed. Ordinarily there is freedom of discussion and every House has got power to discuss any matter which it thinks proper. No doubt it is a wholesome principle that you should not be wasting your time by bringing matters about which you have given an opinion at an earlier period. However wholesome that rule is, it loses the wholesome nature, if you apply it to circumstances other than those which the language of the Standing Order justifies. The right to discuss is a matter of great importance and unless any person, who wants to circumscribe that right, brings his objection specifically within the language of a particular rule by which it is sought to be circumscribed, the general right of discussion must prevail.

"I heard some general discussion that the whole thing is a matter of discretion of the President, and that the hon. the President is entitled to say 'I give my leave' or 'I do not give leave.'"

The hon. the PRESIDENT :—"Does the hon. Member see the difference between clauses (1) and (2) of Standing Order No. 65? One clause refers to a session and the other refers to one year."

* Rao Bahadur C. V. ANANTAKRISHNA AYYAR :—"I referred to that also at an early stage of my speech probably I did not emphasize it sufficiently. Only in the case of resolutions which have been moved in the Council, the limit is one year. In all other cases, even in the case of a resolution which has been disallowed, as in the case of motions discussed the only limit is the same session.

"Let me continue—it was said that it was a matter of absolute discretion of the President and that the hon. the President had got the sole and absolute choice whether he would give leave or not. The question of discretion is, as will be made clear, not an arbitrary discretion. Lawyers are aware of provisions of law wherein it is mentioned that the court may grant bail, the court may adjourn a case, the court may grant leave to institute suits in respect of which part only of the cause of action arises in the City of Madras. The Advocate-General may grant leave to institute suits in cases of public charities. In these cases the word 'may' does not mean that it is a matter of sweet will and pleasure on the part of the person in whom the discretion is vested. It is clear that the discretion has to be exercised in proper cases for the benefit of persons for whom it is intended, so that if the necessary circumstances exist and if a case has fairly been made out for the exercise of the discretion, the mere fact that it is a discretion should not enable anybody to refuse to exercise the same. Section 72-D mentions that there should be free discussion. The only limit is the limit prescribed by rules and by-laws. Unless somebody objects that a particular thing is prohibited by law from being discussed the onus being upon him to show clearly how the prohibition applies, any person is entitled, when once he fulfils the requirements mentioned in the provision, with the consent of the Member in charge and the President, to discuss this matter of general importance.

"I was anxious to trace the right of moving resolutions and the right of making motions in the Legislative Councils. I think I have already taken so much of the time of the House that I do not wish to detain it further. Very shortly I may say that in the earlier Act of 1861 there was no such right as the right of moving resolutions or the right of making

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motions at all. Members of the Legislative Council were brought together only when legal bills were sought to be discussed. In the year 1818, the right was given to discuss the budget but not to vote. By section 72 of the Government of India Act of 1919 and by the Madras Legislative Council Rule 24-A, rights of discussion have been given. If one looks at rule 12-A where the right to make a motion to criticize the policy of a Minister or to show want of confidence in a Minister is given, one can see that it was in order to make that point clear that a new rule, rule 12-A, was enacted, giving Members the right to make motions on the subject also. Rule 24-A is a general rule framed with that object, in the circumstances mentioned therein and with the restrictions mentioned therein of enabling motions to be made on an extended scale. As the present case is one of motion, it is not open to anybody to object to the consent of the President being given if the hon. President deems fit to do so.

"As I have already mentioned, the main distinction between a resolution and a motion would make the matter clear, a resolution being recommendation about something which is left to the ultimate decision of His Excellency the Governor, whereas this motion is one which has to be decided by the House itself; so that, reading the particular proceeding before the House nothing is left to be recommended to the Government. The thing is left for this House itself to decide. For these reasons, I submit that the motion is in order."

* Mr. C. RAMASOMAYAJULU :—"Sir, I wish to correct a statement with regard to my speech. The hon. Advocate-General said that I wanted to give the expression 'subject' some meaning other than what it really bears. I said that it must be understood in its ordinary meaning and not in a restricted sense so as to limit it to the subjects covered by rule 23."

* Mr. S. SATYAMURTI :—"Mr. President, Sir, it is obvious that you do not accept the extraordinary dictum of the hon. the Advocate-General that it is a matter of right on the part of the Government to bring forward this motion and that you have no discretion in the matter except to say 'yes'. That is the effect of trying to argue beyond what is necessary for the purpose. You have followed the principle for the first time of listening to all sections of the House before you make up your mind whether you should give your consent or not. I think you have told us 'I have not made up my mind; the matter is not free from doubt; it is not a matter for my sole judgment; it is not a matter of right; it is a matter of discretion and I propose to decide judicially after hearing all sides of the question'. I am thankful that the hon. the Advocate-General has not been able to force his view upon you."

"With that preface I want to say at once that the hon. the Leader of the Opposition has already stated that no point of order can arise on a motion which is not before the House. That can be raised only in the eventuality of your giving your consent and your leave to the hon. the Leader of the House to make the motion, though it is not on the agenda. That, I take it, will be the time when a point of order can be raised on the question whether it is admissible or not: and then, I take it, after hearing the arguments you will give your ruling."

* The hon. the PRESIDENT :—"Those who have argued that point will not be given another chance."

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* Mr. S. SATYAMURTI :—" I am concerned now only with the matter of procedure, that the point should be raised and that it should be ruled by you.

" I entirely agree with my hon. Friend, the Advocate-General, that your discretion is judicial ; the discretion is not arbitrary ; the discretion you have got to exercise is based on well-known principles which have been formulated by your predecessors in that distinguished office.

" What are the points of the hon. the Advocate-General ? Looking at the history of the Act—he is not familiar with such matters—I mean no offence—he argued that rule 24-A confers a privilege, whereas it restricts. You will remember that, till this rule was enacted, the power of the House to make motions of this kind was almost unlimited and motions were moved with regard to no-confidence in Ministers."

* The hon. the PRESIDENT :—" I do not agree with the hon. Member. The question was always raised that such power was not vested in the House."

* Mr. S. SATYAMURTI :—" I can give one or two instances with regard to the Mettur project. . . ."

* The hon. the PRESIDENT :—" That question was not raised."

* Mr. S. SATYAMURTI :—" I shall try to find out such instances. My submission now is that rule 24-A does not confer a new privilege ; it merely seeks to regulate the inherent right of the House to discuss matters of general public interest."

* The hon. the PRESIDENT :—" I draw the attention of the hon. Member to section 72-D (5) of the Government of India Act."

* Mr. S. SATYAMURTI :—" That section says that rules may provide for the number of members required to constitute a quorum and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules."

* The hon. the PRESIDENT :—" The Council has no right to discuss the subjects not specifically mentioned in the rules. That was the view that was taken. The matter was referred to the Muddiman Committee and rule 24-A was framed thereafter."

* Mr. S. SATYAMURTI :—" I am merely suggesting that while rules may be made for prohibiting or regulating the discussion of subjects, so long as rules are not made for prohibiting certain subjects, it is the inherent right of the House to discuss all subjects."

* The hon. the PRESIDENT :—" Section 5 of the Indian Councils Act of 1909 says : 3-45 p.m.

' Notwithstanding anything in the Indian Councils Act of 1861, the Governor-General in Council, the Governors in Council of Fort St. George and Bombay respectively and the Lieutenant-Governor or the Lieutenant-Governor in Council of other provinces shall make rules authorizing any meeting of their respective Legislative Councils to discuss the annual financial statement of the Governor-General in Council or of the respective Local Governments as the case may be, and of any matter of general public interest and the asking of questions, under such conditions and restrictions as may be prescribed in the rules applicable to the several Councils."

" And the rules were framed thereunder."

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* Mr. S. SATYAMURTI :—" My point is this, Sir : Supposing for argument's sake, the rules do not provide for the number of members who will constitute a quorum ; then there will be no quorum at all. Then two or three members can carry on the business. Therefore, so long as the rule is not made to prohibit the meeting of the Council without a particular quorum, there is no power in anybody to say ' this Council is not validly constituted '."

* The hon. the PRESIDENT :—" Rules are to be framed so as to regulate the asking of questions on and the discussion of any ' subject specified in the rules '. Unless the subject is specified in the rules and it is regulated, the Council cannot have the power to discuss that subject matter."

* Mr. S. SATYAMURTI :—" I submit not, Sir, with all respect. There is the general power of the Council to discuss all subjects. This is an inherent power in the Council. The rules may be framed for the purpose of regulating or prohibiting the discussion of any subject."

* The hon. the PRESIDENT :—" The previous Indian Councils Acts prohibited any other matter, i.e., the Acts of 1861 and 1892. The Act of 1909 also prohibited, but Governments were enabled to make rules."

* Mr. S. SATYAMURTI :—" You will notice, Sir, that the rules have not attempted to prohibit or regulate all possible subjects. The scheme of the rules, on the other hand, is to exclude certain subjects only. Nowhere has it been laid down ' these are the only subjects on which the Councils can pass resolutions or discuss '. It is a rule of exclusion, Sir."

* The hon. the PRESIDENT :—" After rule 24-A came into force, all subjects of general public interest were exhausted, provided that they do not come within the restrictions of rule 23 (1)."

* Mr. S. SATYAMURTI :—" All discussions on matters of public importance can now come to the House either under 23, 24 or 24-A ; but whether a particular subject will be a matter of public importance or not there is no attempt at having a category, even illustrative, of the kind of subjects which can come before the Council."

* The hon. the PRESIDENT :—" The subject may be a matter of public interest or may not be a matter of public interest. Even now, if we read the Act as well as the rules, a subject which is not a matter of general public interest is not provided for by the rules, and there is room for doubt whether a motion on such a matter can be allowed. The Muddiman Committee however said that, as far as the congratulatory and condolence motions were concerned, a practice had already been established."

* Mr. S. SATYAMURTI :—" I entirely agree with you, Sir, with all respect."

* The hon. the PRESIDENT :—" There are other motions which may not be matters of public interest, which may not be congratulatory or condolence motions and not coming within the purview of the rules."

* Mr. S. SATYAMURTI :—" That is my difficulty, Sir. I agree that the rules contemplate discussion of these categories only so long as the subjects are matters of public interest, and there is no rule prohibiting any subject. The only test is whether it is a matter of public interest. Therefore, any subject, so long as the President holds it is a matter of public importance, the Council has got a right to discuss."

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* The hon. the PRESIDENT :—" On account of Rule 24-A ?"

* Mr. S. SATYAMURTI :—" On account of the Government of India Act, which says 'can prohibit or regulate.' I concede that it is up to the rule-making authority to give a list of 40 or 50 subjects and say, 'these are the only subjects on which you can discuss.'"

* The hon. the PRESIDENT :—" Discuss the subject specified in the rules. If the subject is not specified in the rules, you have no right."

* Mr. S. SATYAMURTI :—" I submit with all respect, there is no subject specified in the rules."

* The hon. the PRESIDENT :—" A subject may be of two classes, viz., that which concerns the public interest and that which does not. Subjects which concern the public interest are now exhausted on account of rule 24-A. Subjects which are not of public interest are not dealt with, and even the Muddiman Committee explicitly stated that conventions had already been created regarding congratulatory, condolence, or other ceremonial motions."

* Mr. S. SATYAMURTI :—" I agree, Sir. But with all respect, I submit that there is no provision made anywhere in the rules or any subjects specified in the rules, with regard to which there are rules to prohibit or regulate such discussion. I am almost certain, that there is no attempt made in the rules to specify the subjects on which discussion can take place. There is a lacuna in the rules, I should say."

* The hon. the PRESIDENT :—" The list is being added to one by one. In the rules published in 1920 were included the subjects on which budget motions, motions for adjournment on urgent matters of public importance and resolutions which are recommendatory can be moved. Later on, Rules 12-A and 24-A were added."

* Mr. S. SATYAMURTI :—" If your interpretation is this, that the rules must be read as they stand, so as to give a complete list for the time being, of subjects which may be treated as specified in the rules under the terms of sub-section (5) of section 72-D of the Government of India Act, then I submit that there is only one category—whether you call it a motion or a resolution—of those matters of public importance. That is to say, apart from legislation, apart from budget demands, apart from motions of no-confidence, apart from adjournments of the House for discussing matters of public importance, there is only one category, viz., motions on matters of public importance, which so far as the procedure is concerned, can be discussed either in the way of ordinary resolutions or in the way of resolutions in the form of motions under Rule 24-A. That I concede. But my submission to you is that the distinction sought to be made by the hon. the Advocate-General between motions and resolutions is unknown either to Parliamentary Practice or to our rules and standing orders. I have no hesitation in saying that Standing Order No. 29 says that every question before the House must come only in the form of a motion, and a resolution just like any other matter is a question, and it is put to the House in the form of a question on a motion made before the House. Whatever it be, the question has got to be framed by you only on the making of a motion. And the matter is clinched by the definition of the word 'resolutions' in the rules themselves. Resolutions, Sir, are defined as 'motions for the purpose of discussing matters of general

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public interest'. Therefore, there is no question of any distinction in our rules or standing orders between motions and resolutions, and there is no such distinction in Parliamentary Practice either.

"Then, Sir, the hon. the Advocate-General said that a resolution must be in the form of a specific recommendation to the Government, that this is not a specific recommendation to the Government, that this is not a resolution and that therefore it is valid. There is a great deal of fallacy behind that argument. It is a resolution because we contend it is a discussion on a matter of general public interest. The mere trick of jugglery, if I may say so with all respect, of changing the words cannot change the substance of the thing. I refer to May's 'Parliamentary Practice', page 295. There this distinguished parliamentary authority to which the hon. the Advocate-General referred frequently and to which I shall also refer says 'that a mere alteration of the words of the question without any substantial change in its object will not be sufficient to evade this rule.' 'On the 7th July 1840, Mr. Speaker called attention to a motion for a Bill to relieve dissenters from the payment of church rates before he proposed the question from the chair. Its form and words were different from those of a previous motion; but the object was so substantially the same and the House agreed that it was irregular and ought not to be proposed from the chair'. My submission is this: this motion now asks the House to vote in favour of electing a committee to confer with the Statutory Commission. The earlier resolution was to the effect that the Council will have nothing to do with the Commission. I submit the object is not only substantially but identically the same. Therefore, to say that because the words have been changed and the words 'that it be a recommendation to the Government' are not contained there, it is a motion, is a distinction which certainly ought not to be pressed before you for acceptance.

"Then, Sir, my hon. Friend laboured the point that these motions are not resolutions. Then my humble question to him is 'What are they?' They must be something or other, and there is no use juggling with words. This is a matter which is intended to bring up a matter of general public interest for discussion. My learned friend relied greatly on the wording of rule 24-A. I will do the same, and I am equally confident that a clear unprejudiced reading of that rule will make it clear that this resolution comes within the prohibition of Standing Order No. 65. My submission to you is that the words 'resolution' and 'motion' are there used as if they are interchangeable. 'Save in so far as is otherwise provided by these rules or in any case in which a communication is to be made to the Governor under any provision of the Government of India Act or of these rules, no discussion of a matter of general public interest shall take place. . . .'. I join issue with the hon. the Advocate-General on the meaning of the words. The object of the whole rule is to regulate—to use the words of the Government of India Act—the discussion on matters of general public interest. The whole object of the rule is that discussion on matters of general public interest can come in in only one of the two or three or four ways provided in the rule. The first way is a resolution, then a communication to be made to the Governor under the provisions of the Government of India Act, then a discussion on an ordinary resolution and a discussion on a resolution as contemplated in Rule 24-A. Where does the word 'motion' appear? It does not appear anywhere.

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Then it goes on: 'no discussion shall take place otherwise than on a resolution moved . . . except with the consent of the President and of the Member of the Government to whose department the motion relates'. Is it seriously contended that the word was put in there in order to draw a serious distinction between a resolution and a motion? Is it consistent with canons of statutory construction to say that the authors of these rules want to make such an important distinction between 'motion' and 'resolution' when in the definition clause it is said that a 'resolution' means a motion for discussing a matter of general public interest and in the same sentence of the rule the words 'to whose department the motion relates' are used without both the words meaning the same thing?

"Then, Sir, my hon. Friend also referred to the inherent powers of the House. You also expressed your doubts on the matter, and I do not propose to address therefore on that matter.

"My learned Friend also made a point that the rule of repetition ought not to be extended; that it was a privilege of the House and that we must be very careful not to restrict it. It is a phantom, Sir, this privilege. I can make no motion unless the occupants of that bench agree. It is not as if the House has a privilege of bringing a question before it, subject to your consent as the custodian of the privileges of all sections of the House; but if these seven gentlemen must have the right to regulate discussion of these matters, it is not a privilege of the House, but it is a privilege of the Cabinet that they should give consent or refuse to give consent. If it were a case of the House itself having the right to reconsider the question without any reference to the Government and after reference only to the Chair which will merely carry out the procedural duties without looking into the merits of the question, then it will really be a privilege of the House. I would not, in that case, hesitate to ask you to accept the arguments of the Advocate-General; for in that case the privilege is to be exercised by one who has no political purpose, who is above all parties, who will only be concerned with the privileges of the House; but to exult in a concession which may either be extended or withheld by the Cabinet as a privilege of the House is certainly mistaking the meaning of words.

"Then my hon. Friend also referred to Rule 22 (1), and said that Rule 24-A used the word 'motion' and Rule 22 (1) used the word 'resolution,' and that therefore the two things must be inconsistent. I have already pointed out that these two words are interchangeable, and that there is no use juggling with these words.

"Then my hon. Friend said that this was a third category in the category of motions. It does not take him anywhere. All resolutions are motions; all questions before the House are motions. The question is, what is the category, and my submission is that the category is a category of resolutions. What does this Rule 24-A do? It confers a privilege on the House in this sense, namely, that when the Members of the Treasury Bench agree and you give your consent, then they can dispense with notice and with having to ballot the resolutions. There is no other privilege given to this House. If they agree, and if you give your consent, you can do without notice, you can escape the chances of the ballot, and I think, Sir, that it is a great enough privilege by itself without having anything to add to it.

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"My hon. Friend contended that Standing Order No. 30 alone might apply and Standing Order No. 65 might not apply. I want to know, if it is merely a motion without having to come under the category of resolutions, how Standing Order No. 30, which merely prohibits a motion within the same session can be held to apply to it unless it comes under some category or motions or other. You do not escape by merely saying it is a motion. You have got to bring it in under some category. I submit with confidence that there is no category under the rules or standing orders except the category of resolutions, under which this can come. It is not a question of no-confidence; it is not an address to the Governor; it is not a motion for adjournment. Then, what is it? As a lawyer, he must meet this point. There is no use repeating the mantram 'motion.' You, Sir, yourself laid down that Rule 24-A taken along with similar rules on matters of general public interest is exhaustive."

* The hon. the PRESIDENT:—"Those exhaust the subjects of general public interest."

* Mr. S. SATYAMURTI:—"Therefore, I am making my submission from the dictum laid down by you just now, namely, that Rule 24-A taken along with the other rules exhausts all the categories of subjects on which discussions can take place in the House as matters of general public importance. If that is so, Mr. President, I submit, further, that this motion can come in only under the category of resolutions, because . . ."

* The hon. the PRESIDENT:—"It comes under the category of motions. Every motion need not be a resolution. Every resolution is a motion. A resolution is one which is always a recommendation to the Government under Rule 23 (1)."

* Mr. S. SATYAMURTI:—"But Rule 24-A uses the words 'matter of general public interest.' That is a common factor."

* The hon. the PRESIDENT:—"Except with the consent of the President and of the Member of Government."

* Mr. S. SATYAMURTI:—"I mean that this rule contemplates, whether it be a resolution or a motion under Rule 24-A, only a discussion on a matter of general public interest. Then, if it is a motion which raises a matter of general public interest, I say, taking the definition of 'resolution'—which says 'resolution' means a motion for the purpose of discussing a matter of general public interest—this motion is a resolution."

* The hon. the PRESIDENT:—"I am afraid in that case a further difficulty arises on account of Rule 23 (1). Rule 23 (1) has to come along with others. It prescribes what the form of a resolution should be. When it does not have that form, it is a motion. My difficulty is this: when a matter of general public interest is put in the form contemplated by Rule 23 (1), it becomes a resolution and Standing Order No. 65 will apply to it. When it is not cast in that form, it remains only a motion, and then Standing Order No. 30 applies to it."

* Mr. S. SATYAMURTI:—"I put it this way. It is a resolution requiring the consent of the President and of the Member of Government, but not requiring notice or ballot."

* The hon. the PRESIDENT:—"It is a motion requiring the consent."

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* Mr. S. SATYAMURTI :—" Motion is the genus ; resolution is a species ; and the motion may be one of six or seven kinds."

* The hon. the PRESIDENT :—" Motions other than resolutions. The subjects may be divided like this ; subjects concerning the domestic affairs of the house and matters of public concern. Motions relating to matters of public concern may be divided into two classes (1) resolutions which are put in the form of recommendations to Government and (2) motions other than resolutions which are not in the form of recommendations to Government."

* Mr. S. SATYAMURTI :—" Matters of public concern may be divided into (1) resolutions in the form of recommendations to the Government and (2) resolutions in the form of a motion under Rule 24-A, without having the form of a recommendation to Government, without requiring notice or ballot and subject to the consent of the President and the Member of Government. That is the definition, I submit, for your careful consideration."

* The hon. the PRESIDENT :—" Standing Order No. 65 was framed when the latter class of motions had not come into existence. Therefore, the application of Standing Order No. 65(1) is to be confined only to resolutions, or motions on matters of general public interest."

* Mr. S. SATYAMURTI :—" On the other hand, if I may say so respectfully, that argument strengthens my position. Because, these standing orders are valid and they apply to all subjects covered by the rules except to the extent of their repugnancy to the rules. Sir, may I submit this: Standing Order No. 65 was in existence at the time when Rule 24-A was made. Rule 24-A was not in existence when Standing Order No. 65 was made. But Standing Order No. 65(1) was in full validity at the time Rule 24-A was made, and under section 72-D (6) of the Act, I submit, no standing order may be made which is repugnant to the provisions of any rules. Therefore to the extent of that repugnance but not otherwise, the standing order may not apply, unless it is contended that the standing order is repugnant to the rules"

* The hon. the PRESIDENT :—" If the rules provide for something and the standing orders also provide for the same thing, and if there is a repugnance between the two, the standing orders are not operative."

* Mr. S. SATYAMURTI :—" Yes, Sir. But it is a matter for which only standing orders provide, and therefore there can be no repugnance. Therefore, Standing Order No. 65 must be held to apply to it, and if the word ' resolution ' is there, it must be taken as meaning what the definition says,— ' resolution ' means a motion for the purpose of discussing a matter of general public interest. Therefore, under Standing Order No. 65 when a resolution has been moved, no resolution or amendment, or a ' motion ' on a matter of general public interest, should be moved within a year for the purpose of raising the same question. Therefore, I submit the existence of Standing Order No. 65 is rather an argument in my favour."

" Then, I want to suggest only one point and pass on to the question of your consent. As argued by the hon. the Advocate-General, the inclusion of the word ' subjects ' in rule 24-A is not conclusive. Is it suggested that no other limitations apply to those motions, limitations such as that they should not contain defamatory words, or ironical expressions? I submit that apart from the question of the actual category of subjects included in rule 23(1), there are other restrictions which should also be applied, as otherwise it will lead to absurd and anomalous conclusions."

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Then, Sir, is it suggested that you can bring up a budget motion under this category, namely, a motion that the budget passed by this House for 1928-29 be now rescinded and that all the money granted for the Transferred departments be spent on the Reserved departments? Is it contingent because rule 23 (1) deals with only three restrictions on subjects for discussion? Is it suggested that if tomorrow the hon. the Finance Member brings forward a motion that the budget be rescinded, however improbable an event it may be, the House can proceed to pass a resolution on that motion? Therefore, you have got to import into the interpretation of the rules all the relevant provisions. Otherwise, it will lead to dangerous difficulties which it will be impossible to provide for.

"Now, Sir, I proceed to make a few observations on the question as to why in our humble judgment you ought to withhold your consent, not as a party man, not as a politician, but as holding the high office of the President of this House. Sir, what has happened since the resolution was passed last time, whatever individuals may now say on the question? The present Law Member, who was then occupying a seat below the gangway, made a heroic attempt to get the House committed to an amendment which said that the House would ere long try to co-operate if the powers and status of the Committees were improved, and his attempt failed and miserably failed. That shows, Sir, that the House at that time had given a decision not only on the question, to which attention is invited, of not co-operating, but on the very specific question of appointing a Committee to co-operate. The House said, 'we shall not be satisfied if the powers and privileges of the committees are alone increased; we want something more than that.' And, Sir, my hon. Friend from Tinnevely also then referred to the personnel of the Commission. I do not want to tire you with long references. But I am absolutely certain that almost every speech made on that occasion wanted that we should have self-determination in all things including the personnel of the Commission and that we should not be satisfied with anything less. Therefore, so far as that decision of the House is concerned, nothing can be said to justify this motion being brought up now. You, Sir, as President are entitled to look up and see whether any event has happened which would justify the House taking the privilege of reconsidering its verdict. I am sure you ought not to take notice of anything unless it be a matter of public importance. True, one event has happened to which reference is made in the motion, namely, the letter of Sir John Simon to His Excellency the Viceroy dated the 6th February 1928. But it does not refer unless I am mistaken, even to the telegram of Lord Birkenhead to the Viceroy about the Simon concessions to the Punjab Committee."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—"The reference is there in the motion."

* Mr. S. SATYAMURTI :—"I stand corrected, Sir. Now, Sir, I wanted to refer only to the telegram which Lord Birkenhead sent to His Excellency Lord Irwin, and which the Government of India published. I am sure you know the terms of that telegram; I only want to invite attention to this portion where it is stated that the Simon Commission 'considers that the reservation made in Sir John Simon's letter of February 6 to the Viceroy, which, in any event, would have been put into effect very rarely, if at all, can be adequately secured by the power which rests with the Chairman to protect any witness, and by his discretionary power to exclude the Press from

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the joint sittings when necessary.' Therefore, Sir, as the *Madras Mail* pointed out at the time there has been no change in the constitution of the Commission or in the status and powers of the Committees. Therefore, nothing has happened which can justify the question being reopened here now.

"Sir, the hon. the Advocate-General referred to Parliamentary practice. I wish he looked into May's Parliamentary Practice. The rule against repetition is a sound rule of public business, so says May. Our rules are self-contained and prevent a resolution being raised on the same issue in the course of one year. Moreover, even in the House of Commons, as you undoubtedly know, when the House is given an opportunity of reconsidering a previous decision, what the Government or the member concerned does is to table a resolution in terms asking the House to rescind the previous resolution. A positive vote is then taken."

* The hon. the PRESIDENT :—" Within the same session ? "

4-15
p.m.

* Mr. S. SATYAMURTI :—" Yes, because the rule there is very clear. I am submitting another line of argument for your consideration even assuming that the resolution in the present form simply ignores the past resolution of the House and makes no reference to it. . . . "

* The hon. the PRESIDENT :—" If it is a motion covered by the rule of repetition, why should it refer to the question of rescinding ? "

* Mr. S. SATYAMURTI :—" The rule against repetition is with regard to time. That is an absolute rule. Therefore if you hold that the rule applies, there can be no repetition within that session at all. I am going a step further."

* The hon. the PRESIDENT :—" The motion is subsequent to the prorogation of the session; there need not be rescinding. That seems to be the Parliamentary practice."

* Mr. S. SATYAMURTI :—" I am arguing that this resolution does not give an opportunity to the House to say ' We have reconsidered the resolution ' ; it simply ignores it. I want to draw your attention to the dictum given by your distinguished predecessor, Sir P. Rajagopala Achariyar, when a motion not covered by rules or standing orders but provided for by the Act itself was being discussed—that was a motion by the Leader of the Opposition who was then a private member—viz., to present an address to His Excellency the Governor asking him to withhold his assent to the Madras Hindu Religious Endowments Bill. On that matter, there were no rules of standing orders. It was only the mere case of a motion unprovided for. Then, Sir, your predecessor laid down that in admitting motions of this kind the President had to be guided by the general scheme of the Act, rules and standing orders. In giving your consent, you must so make up your mind as to give effect to the general scheme of the Act, rules and standing orders. When it is the case of discussing or raising a discussion on a matter of general public importance, you would be consulting the best wishes and traditions of this House if you say ' so long as it raises a matter of general public importance, whether you call it a resolution or a motion, I shall not give my consent within twelve months of the earlier resolution having been moved ' . On this, the executive Government cannot reasonably complain that they will suffer irreparable damage by the motion not being allowed. The

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Simon Commission is to come in February, and by the time the Commission comes, one year will have elapsed and then it will be time for Government to approach the Council and then there will be no question of consent."

* The hon. the PRESIDENT :—"In the case of the Punjab, all the papers have been submitted to the Punjab Committee."

* Mr. S. SATYAMURTI :—"That may be done in January."

* The hon. the PRESIDENT :—"The members of the committee may want time to digest"

* Mr. S. SATYAMURTI :—"There is no irreparable damage done to Government or others who believe in this Commission. Lastly there is no allegation before you that those who originally voted before have now changed their minds and therefore want an opportunity."

* The hon. the PRESIDENT :—"Mr. Kumaraswami Reddiyar has supported the motion."

* Mr. S. SATYAMURTI :—"He was only supporting the argument; he may not vote for it."

* The hon. the PRESIDENT :—"Mr. Siva Rao may support."

* Mr. S. SATYAMURTI :—"Both of them may not vote."

The hon. the PRESIDENT :—"There may be cases of speech on the one side and vote on the other."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Or at least neutrality."

* Mr. S. SATYAMURTI :—"In any case, I submit there has been no precedent. You are asked to lay down a ruling on a matter which has not been covered by precedent. In the United Provinces and, the Central Provinces the Government has not so far made any attempt to upset the verdict of the House; in the Assembly, to the best of my information, they have not attempted it. It is in Madras alone that the attempt is made to upset the earlier verdict of the House. I ask you, Sir, as President, to resist any such attempt and to uphold the best interests and traditions of the House."

* The hon. the PRESIDENT :—"Is not the responsibility more in the hands of the House?"

* Mr. S. SATYAMURTI :—"Sometimes in the hands of the President. In the reign of Charles I, the Speaker stood up for the rights of the members of the House of Commons. It is as much, very much more in your hands than in ours, and I have no doubt that if you can refuse your consent, Providence will bless you."

Diwan Bahadur P. KESAVA PILLAI :—"We had had discussions, very eloquent discussions, from both sides of the House. My Friend, Mr. Kumaraswami Reddiyar, said that he voted with some mental reservation. I had no mental reservation, but I voted against the personnel. I should think there are Members who might have changed their opinions, and they might be anxious to express their opinion this time. I think it is but fair that the Chair which is above all parties and interests should give an opportunity to the House to discuss it. I will simply quote here from my Friend Mr. Satyamurti's speech made some time ago at the time of your assumption of this high office as President:

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'Nor is it likely that the Governor will raid this House to find me or other inconvenient members of this House as Charles I did in 1642, but I can assure the House that if any such thing happens, you will say as Speaker Lenthall said "the Speaker of the House of Commons has neither eyes to see nor ears to hear nor tongue to speak but as the House is pleased to direct".'

"In all humility, may I say that that you can have nothing better than these words to guide you."

Mr. S. SATYAMURTI:—"And the standing orders."

Diwan Bahadur P. KESAVA PILLAI:—"I can assure my Swarajist Friends that I am going to vote against this motion but I think it fair that the House should be heard on this occasion. If the Government are defeated, I should be delighted."

* The hon. the PRESIDENT:—"I have given my serious consideration to the question whether I should give my consent or withhold it. During the course of the arguments, the question of point of order was also mixed up. I feel that I should at this stage reserve my opinion regarding the point of order. I have simply to decide whether my consent is to be given or not. I do not think the Chair will be justified in taking into consideration the political situation that may arise in the House from time to time. He must, though in the House, keep himself aloof from the political situations that may arise. As for the other considerations that have been urged, I think that as long as the usual procedure is adopted, the President will have to give opportunity to the House for expressing its opinion on the various motions that may be brought forward. The general rule guiding the President must be to give opportunities to the House unless there is some express provision saying that such an opportunity should not be given. How far the President in using his discretion will be justified in withholding his consent when the usual procedure is adopted is a matter in which I am not in agreement with the Opposition. In this case, as is customary with this House, the Council was prorogued on the 30th March up to this date. That is the usual date or time for prorogation. And a new session has begun. According to the practice in the House of Commons when the Government in England found the necessity for proroguing the House as a means to get round the rule of repetition, it was never urged as flouting the opinion of the House or abusing the right of making a motion. This was pointed out by the Advocate-General. In these circumstances, I do not think I will be justified in saying that the Government is abusing any privilege of the House or flouting the opinion of the House. It is for the House to protect itself in the matter of its decisions. I do not think that the President will be justified in helping the minority or the majority one way or the other by using his discretion in favour of or against it. Under these circumstances, I consider that I have to give my consent for the making of this motion.

"Some technical objection was raised as to the inclusion of the item in the agenda. I think no express rule is necessary to include it in the agenda. In any case the objection can be got over under Standing Order No. 6 (2). I give my leave for including it."

Mr. S. SATYAMURTI:—"Is it not usually asked for?"

* The hon. the PRESIDENT:—"In this case, the Leader of the House asked for my consent as well as for leave to include it in the agenda. I said the Government have got the right to include it in the official agenda. Since technical objection is raised I give my ruling for its forming part of the agenda."

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* The hon. Sir NORMAN MARJORIBANKS moved—

‘That for the purpose of jointly conferring with the Indian Statutory Commission on the terms stated in the letter of the Chairman of the Commission to His Excellency the Viceroy, dated the 6th February 1928, and in the further announcement published by the Government of India on 23rd June 1928 this Council do proceed to elect seven representatives in accordance with the regulations made by the hon. the President under Standing Order 77 for the holding of elections by means of the single transferable vote.’

4-30
p.m.

* Mr. S. SATYAMURTI :—“ On a point of order, Sir. I now raise the point of order which unfortunately some of us had to raise earlier and speak upon. I will take care not to repeat what they said, and place before you those points which have not been already placed before you.

“ My first point is that this subject is not one which can be treated as coming under rule 24-A ; that is to say, as if the consent of the Member to whose department the subject relates has been given. The hon. the Leader of the House is undoubtedly a Member of Government. He has made this motion. Unless you rule that by implication his consent also must be presumed . . . ”

* The hon. the PRESIDENT :—“ I think I have already ruled it in the case of a motion brought forward by the hon. Mr. Moir.”

* Mr. S. SATYAMURTI :—“ You rule that the very fact of his making the motion means his consent also to the motion ? ”

The hon. the PRESIDENT :—“ The hon. the Finance Member made a motion under 24-A to carry over to a new year lapsed amounts of a previous year. I then said that when a Government Member makes a motion concerning his department he has given his consent to it by implication.”

* Mr. S. SATYAMURTI :—“ Was it under rule 24-A ? ”

* The hon. the PRESIDENT :—“ Yes.”

* Mr. S. SATYAMURTI :—“ You ruled that the fact of the motion being made was itself consent. There was no need for consent ? ”

* The hon. the PRESIDENT :—“ Yes.”

* Mr. S. SATYAMURTI :—“ My next point is that the Reforms or at any rate the work of the Simon Commission is not the work of a department of this Government. I will make myself clear. Rule 24-A says ‘except with the consent of the President and of the Member of the Government to whose department the motion relates.’ Turning to the distribution of portfolios you will find that the portfolio of the Revenue Member Sir Norman Marjoribanks, K.C.S.I., C.I.E., consists of two, (1) Provincial subjects and (2) Central subjects. The last of the Central subjects is Reforms.

“ Now, Sir, I submit that, first of all, under the scheme of our Devolution Rules, Central subjects are not a department of the Local Government at all. Secondly, the Reforms or, at any rate, the question of the work of the Simon Commission is not a department of the Local Government. The constitution of a committee to co-operate with the Simon Commission is not the business of the Government. It may be a business of the House I agree, but certainly it is not the job of Sir Norman Marjoribanks, Member of the Government of Madras, to get the appointment of a committee. He is not

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running the House or the Simon Commission either. Neither the House nor the Simon Commission is one of the portfolios of the Leader of the House.

"Sir, under the Statute provision may be made by rules under this Act for the classification of subjects in relation to the functions of Government as Central and Provincial subjects for the purpose of distinguishing the functions of Local Governments and Local Legislatures from the functions of the Governor-General and the Central Legislature. Those rules have been made in what are familiarly known as Devolution Rules. Under those rules there are schedules I and II. Schedule I deals with Central subjects. In the Statutory classification itself there is no central subject called Reforms. Where on earth the Madras Government got the classification of Reforms as one of the Central subjects which can be made a portfolio of the hon. Sir Norman Marjoribanks beats me. I have looked into it and if I am wrong I apologise. There is the item (47) under Part I of schedule I. It reads: 'All other matters not included among Provincial subjects under part II of this schedule.' That certainly cannot mean Reforms as to the future Government of India. I put it as an argument of common sense. The Government exists for the purpose of carrying on the Government. It is not the job of the Government for the time being to take charge of future changes in its own constitution. It is an extraordinary position. It is the job of His Majesty the King and Parliament. (The hon. Dr. P. Subbarayan: You agree?) That is the position as the Statute stands. (Dr. P. Subbarayan: Anyway, you agree?) My friend can wait to cut jokes. Sir, my point is that there is no subject as 'Reforms in the constitution' in any portfolio. My submission is that *all other matters* should be construed as *ejusdem generis*. There is no subject which can be taken to resemble or come near Reforms. Assuming that for the sake of argument it will come under clause 47 and that under Central subjects Reforms may be a subject, I submit that it is not a department of the hon. Sir Norman Marjoribanks. Because. . . ."

* The hon. the PRESIDENT:—"Does the hon. Member make a distinction between functions and departments of Government?"

* Mr. S. SATYAMURTI:—"Under section 45-A provision may be made for the classification of subjects. I am submitting the classification of subjects in relation to the functions of Government."

* The hon. the PRESIDENT:—"Rule 24-A (3) speaks of the Governor disallowing motions in regard to a subject which is not the primary concern of the Local Government. The previous portion speaks of the consent of the Member. He may give his consent because he is running the portfolio. It may not be a provincial subject, but a central subject run by him. Therefore it contemplates cases of Members of Government being in charge of portfolios which are not entirely provincial. They may be also central subjects and that is why the Governor has been given power to disallow motions relating to them."

* Mr. S. SATYAMURTI:—"I know. Assuming that it is so, the consent given must be the consent of the Member of Government to whose department the subject relates. Sub-rule (3) of 24-A gives an additional power to the Governor to disallow a motion on the ground that it relates to a matter which is not primarily the concern of the local Government. At the same

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time it also gives you the power to rule whether the consent provided for in 24-A (1) has been given or not. It is in your province to determine whether the consent of the Member of Government to whose department the motion relates has been given or not. It is on that point I am making this submission whether you think that the work of the Simon Commission or the election of a committee to co-operate with the Simon Commission is a department which is being administered by the hon. Sir Norman Marjoribanks, the Revenue Member of the Government of Madras. In the scheme of the Devolution Rules under the Act you will find in the classification of central subjects that '(47) *all other matters*,' is the only head under which the subject of 'Reforms' can come.

"Then, Sir, I am at a disadvantage. I am not familiar with the authority under which this Government is administering the so-called central subjects. The only authority I can trace is section 45-A, clause (c) of the Government of India Act which says that provision may be made by rules under the Act 'for the use under the authority of the Governor-General in Council of the agency of local Governments in relation to central subjects, in so far as such agency may be found convenient and for determining the financial conditions of such agency.' If this is conceded that this Government is only an agent for the central Government so far as the Reforms portfolio is concerned it is not a department which is administered by the local Government. It is merely acting as an agent of the Government of India. It may be that, as my friends claimed last time, under Devolution Rule 5 they may have to fulfil some obligations which the Government of India may ask them to fulfil. Sir, excepting that, there is Devolution Rule 3 which runs as follows: 'For the purpose of distinguishing the functions of the local Government and the local legislatures of Governor's provinces from the functions of the Governor-General in Council and the Indian legislature, subjects shall in those provinces be classified, in relation to the functions of Government, as central and provincial subjects in accordance with the lists set out in schedule I.' Therefore, so far as this Government is concerned, they are administering provincial subjects not one of which is Reforms. So far as central subjects are concerned at best they may be considered to be exercising certain functions with regard to central subjects as agents of the Government of India.

"I therefore submit that the constitution of a committee for the purpose of conferring with the Simon Commission is not a provincial subject: does not belong to a department which is being administered by the hon. Sir Norman Marjoribanks and therefore his consent, whatever it may mean, does certainly not mean the consent contemplated in 24-A as being the consent of the Member of Government to whose department the motion relates.

"Then, it must be a matter which is primarily the concern of the local Government. Undoubtedly the rule contemplates that it is the privilege of the Governor to disallow a motion on the ground that it is not primarily the concern of the local Government. I submit you too have the power to see to it that no motion is raised on a matter which is not primarily the concern of the local Government. That being so, it is not as if the Governor's power, to exclude discussion of the subjects which are not matters primarily the concern of the local Government, is exclusive of your jurisdiction. You can also rule and say 'I will not admit this motion because it is not a matter

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primarily concerning the local Government. Speaking subject to correction, I may say that it has been the uniform practice of this House that no adjournment motions are allowed if they are not matters which are primarily the concern of the local Government. It is not provided for as one of your powers, but you exercised that and no question has been raised. I submit therefore. . . ."

The hon. the PRESIDENT:—"I clearly remember that the question once arose in regard to the sending of Indian troops to China and the motion was disallowed as it concerned foreign relations. It was His Excellency who disallowed it. I do not remember any other similar motion."

* Mr. S. SATYAMURTI:—"But the practice has been that so far as adjournment motions are concerned." 4-46
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* The hon. the PRESIDENT:—"Was any adjournment motion disallowed on the ground that it did not concern the local Government?"

* Mr. S. SATYAMURTI:—"Take for example salt tax. That motion was sought to be amended as a recommendation to the central Government. This House was not allowed in all matters of adjournment motions or resolutions to bring up matters which were not primarily the concern of the local Government."

* The hon. the PRESIDENT:—"Did not this House concern itself with salt tax?"

* Mr. S. SATYAMURTI:—"Only as a sort of recommendation to the central Government. Sir, I am talking of the legal point. Sometimes we discuss motions merely as recommendation by the local Government to the central Government. But here we are concerned with the question as to whether this is a matter which is primarily the concern of the local Government. In any case I submit it is not a department of the Government and at this stage it is not open to the Governor to give his consent or to reject it. The matter has now come before the House for the first time. It will be hereafter for His Excellency to consider whether it is a matter which is primarily the concern of the local Government. When it comes on the agenda paper the rules contemplate that it is a business of the House. So before it appears on the agenda paper the Governor has power either to reject it or allow it. This kind of previous disallowance has never happened before. In the first place it is not a department of the local Government. Secondly even assuming that it is so, it is not primarily the concern of the local Government. Therefore for these two reasons this resolution is out of order. Therefore the consent given is not a valid consent."

"Sir, I only want to add that the advantages of this motion are that it need not be in the form of a recommendation to the Government, it need not require the usual notice and it need not run the gauntlet of the ballot box provided your consent and the Member's consent are obtained."

* The hon. the PRESIDENT:—"As far as Government motions are concerned, there is no gauntlet of the ballot box."

* Mr. S. SATYAMURTI:—"Then it is wholly out of order. I take it that Sir Norman Marjoribanks himself moves this motion."

* The hon. the PRESIDENT:—"Any item in charge of an official Member is an official business. The Leader of the House can arrange his business in the agenda without going through the ballot. That is the rule."

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* Mr. S. SATYAMURTI :—"Therefore, Sir, as the Leader of the House he claims priority. As a Member of the Government he gives his consent. As a Member of the House he moves this motion. This is rather extraordinary and he will advise the Governor not to disallow the motion. I say that is autocracy, Sir; you ought to help us."

"Then, Sir, if this is a special kind of motion which is not a resolution I submit you cannot bring it under Standing Order No. 30 except by saying that it does not raise substantially the same issue as it is not brought within the same session. My point is this:—Is it contended that rule 24-A is self-contained? Rule 24-A no doubt lays certain restrictions with regard to the kind of matter that has to be brought and with regard to previous consent. I submit it cannot be contended for one moment that it is self-contained or exhaustive of all possible restrictions that can be brought forward under the rules, as if you can have budget motions or legislative motions. If the rule were self-contained, it should be equally open to you to disallow such motions which are provided for by other rules."

* The hon. the PRESIDENT :—"Budget motions and legislative motions are also provided for in the rules."

* Mr. S. SATYAMURTI :—"Therefore what I want to submit is that you can bring forward one class of motions under rule 24-A. You cannot bring forward other matters because they are provided for in other rules."

* The hon. the PRESIDENT :—"Motions other than resolutions and motions other than those which are provided for by the rules have all been variously provided for. Those that are not provided for by the two classes are those covered by the last portion of 24-A."

* Mr. S. SATYAMURTI :—"Therefore resolutions are also provided for under the rules. Therefore you must exclude budget motions and legislative motions only on the ground they are otherwise provided for in the rules. Therefore I say that you ought to construe this class of public business as a class of business provided for in the rules. If they are so provided, a further class of resolutions is provided for in this rule, namely, resolutions which shall dispense with notices of ballot. My point is that you cannot avoid Standing Orders Nos. 54 and 55. Now Standing Order 54 says—

'Subject to the restrictions contained in the rules and the Standing Orders any Member may move a resolution relating to a matter of general public interest.'

'Provided that no resolution shall be admissible which does not comply with the following conditions, namely :—

'(a) it shall be clearly and precisely expressed and shall raise a definite issue;

'(b) it shall not contain arguments, inferences, ironical expressions or defamatory statements nor shall it refer to the conduct or character of persons except in their official or public capacity.'

"Then, I submit, Sir, if it is argued that rule 24-A is self-contained you need not attract the previous Standing Orders to govern the admissibility of such motions. They may be loosely expressed, they may be indistinctly expressed, they may not contain definite issues, they may contain ironical or defamatory statements, and they may also refer to the conduct or character of persons in their private capacity. I do not think it will be contended by anybody that such motions can be moved. They are prohibited only by Standing Orders which govern resolutions only. I submit that Standing Order No. 65 which also governs the moving of resolutions must be equally held applicable to the moving of motions under rule 24-A just a

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you hold Standing Orders No. 54 or 55 applicable to these motions. The only other matter that seems to weigh with you is the use of the word 'subjects' in rule 24-A (2). Rule 24-A (2) says—

'It shall not be permissible to the President or to the Member of the Government concerned to give his consent to the moving of any motion in regard to any of the subjects in regard to which a resolution cannot be moved and the decision of the Governor on the point whether any motion is or is not within the restrictions imposed by sub-rule (1) of rule 23 shall be final.'

"My submission is that it is not an exhaustive rule of exclusion. It is only one of the many rules which are enforced before a motion is admitted. Why, for example, rule 23 only prohibits the classes of subjects to be moved as resolutions. But I submit with some confidence that your predecessors have uniformly held that Standing Orders Nos. 54 and 55 govern the moving of resolutions. Therefore rule 23 has not been considered once and for all to cover exhaustively the nature and form of resolutions, although it has been held to decide the question as to what subjects shall not be included in the resolutions. You must consider it as one of the many rules governing resolutions. Secondly it is said that the decision of the Governor shall be final. Does it mean that there is no scope for your decision? If it is contended that no further restriction shall bind the Governor in allowing or disallowing a motion under rule 23, it must follow that the Governor's decision having been made final, there is no scope for discussion here at all."

* The hon. the PRESIDENT :—"Rules 23 and 24 refer to the scope and nature of resolutions, whereas the Standing Orders refer to the form of resolutions. Standing Orders refer to the form whereas the rules refer to the scope of resolutions."

* Mr. S. SATYAMURTI :—"Quite right. I take it that you will have to work the rules with regard to the scope of the resolutions and the Standing Orders with regard to their form."

* The hon. the PRESIDENT :—"I do not quite follow you. I will have to see first as to the form of resolutions."

* Mr. S. SATYAMURTI :—"You will have to look to both. Simply because they are in form you will not admit them. Nor will you admit them simply because they conform to the rules with regard to the scope of the subject unless they are in form. Therefore you will have to look to both. Now I want you to go one step further and enforce Standing Order No. 65 also. With regard to the time there are rules and Standing Orders which you no doubt must take account of, so long as the Standing Orders are not repugnant to the rules. Standing Order No. 65 cannot by any stretch of imagination be contended to be repugnant to these rules. Therefore I submit in giving effect to Standing Order No. 54 or 55 with regard to the form of resolution you exercise the power vested in you by rule 24-A. I ask you if you are going to enforce Standing Orders Nos. 54 and 55 why you should not enforce Standing Order No. 64 or 65 because Standing Order No. 65 refers to resolutions. It is only to refer to all classes of resolutions Standing Order No. 54 specifically says—

'Subject to restrictions contained in the rules and Standing Orders any Member may move a resolution relating to a matter of general public interest :

'Provided that no resolution shall be admissible which does not comply with the following conditions.'

"Similarly Standing Order No. 55 says—

'The President shall decide on the admissibility of a resolution.'

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‘Therefore in enforcing rule 23 or 24 if you will have to enforce Standing Orders Nos. 54 and 55, Standing Order No. 65 can also be equally held applicable to the admissibility of a motion of this sort, because it is moved before the lapse of a year from the date of the previous resolution.

‘One more point. Then, Sir, going back to the wording of rule 24-A (2) it says—

‘It shall not be permissible to the President or to the Member of the Government concerned to give his consent to the moving of any motion in regard to any of the subjects in regard to which a resolution cannot be moved.’

‘Taking the word literally can a resolution be moved to-day with regard to the Simon Commission? There is no use of saying that the word ‘subject’ is there and therefore I will look to nothing else. The point therefore is you shall not allow a motion on a subject on which a resolution cannot be moved at the time at which the motion is sought to be made.

‘The question is this: whether you can allow discussion on a subject which is sought to be made as a motion, while a resolution on the same subject cannot be moved. I submit that this is a reasonable construction and it is not an extraordinary construction. It is a natural and reasonable construction adopted in the interpretation of all statutes. It is an undoubted truth that all parts of law should be considered so as not to make one section infructuous or superfluous. The attempt of interpreters should be to reconcile reasonably the whole statute.

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‘I therefore submit with some confidence that what are intended to be excluded are subjects on which a resolution cannot be moved. If it is argued that we can do it and that the only prohibition is against time, I say, how do we know what might happen six months hence when the resolution will be in order? I want to make two arguments which are my conclusive submissions. The first, Sir, is that you have uniformly worked Standing Orders Nos. 54 and 55 as bearing upon resolutions in the same way as rules 23 and 24. You have yourself expressed the same view so far as the form of it is concerned. The term used in Standing Orders Nos. 54 and 55 is ‘resolution’ and in Standing Order No. 65 also it is ‘resolutions’ I ask you therefore to work rule 24-A, Standing Orders Nos. 65, 54 and 55 together. My second submission is that the word ‘subject’ in rule 24-A should be construed naturally and in an intelligible way, namely, whether it is a subject on which a resolution can be moved at the time at which the motion is made. To say that we can do it hereafter does not take us far. The question before you is, can a resolution be moved to-day on this subject and debated upon? Therefore, I submit that this motion is wholly out of order.”

The hon. the PRESIDENT:—“The Council will now adjourn and re-assemble at 11 o’clock to-morrow.”

The House adjourned.

R. V. KRISHNA AYYAR,
Secretary to the Legislative Council.